

# Chailey Neighbourhood Development Plan 2019- 2034

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## Submission Version

A Report to Lewes District Council on the Examination of the Chailey  
Parish Neighbourhood Plan

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## Contents

	Page
Executive Summary	3
Introduction	5
The Examiner's Role	5
The Examination Process	6
The Consultation Process	7
Regulation 16 Consultation	8
The Basic Conditions	8
Compliance with the Development Plan	8
Compliance with European and Human Rights Legislation	10
The Neighbourhood Plan: An Overview	11
The Neighbourhood Plan Policies	14
The Referendum Area	30
Summary	30

## Executive Summary

My examination has concluded that the Chailey Parish Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Deleting Policy H01 dealing with planning boundaries.
- Removing from a number of policies the use of the Character Assessment being used as the reference to assess applications.
- Removing the requirement for housing mix is to be “agreed” and to clarify that the lifetime homes standards relate only to elderly person accommodation.
- Clarifying the extent of the policy dealing with materials and referring to locally appropriate materials rather than referring specifically to Chailey stock bricks or bricks of Sussex origin.
- Removing from Policy HO6 the promotion of walking, cycling and access to public transport.
- Deleting the development of residential gardens policy.
- Removing the retail element of the policy dealing with conservation areas and differentiating between policies affecting land within and outside the conservation areas.
- Changing reference from “historic buildings” to “heritage assets” and requiring any assessment to be based on the significance of the asset
- Removing reference to affordable housing need within the parish and the requirement for local connection.
- Removing requirements in the landscape policy relating to information to be submitted with planning applications.
- Rationalising the wildlife protection policy.
- Focusing Policy ENV3 to the protection of the landscape character in the parish and the setting of the settlements within the countryside.
- Restricting Policy EN4 to only relate to locally listed buildings.
- Setting the threshold of impact on biodiversity interest to “significant impact” and introducing the possibility of mitigation measures being put in place.
- Removing reference to views of particular significance.
- Deleting the policy on Chailey Common buffer zones.
- Deleting the policy regarding the spending of CIL contributions.
- Removing reference to support for the continued use of community facilities.
- Refining the policy on Assets of Community Value.
- Deleting Policy TRA1 as it duplicates the requirements of Policy HO6

- Establishing the threshold for requiring highway mitigation to development that has a significant impact.
- Deleting the policy offering support for traffic and highway improvements.
- Rationalising the car parking policy.
- Introducing criteria for considering the loss of retail premises.
- Deleting the policy on rural businesses as it is out of line with strategic local plan policy and national planning policy.

The referendum area does not need to be extended beyond the plan area.

## Introduction

1. 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 adopted Lewes Local Plans – Part 1 and 2 and the East Sussex Waste and Minerals Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Chailey Parish Council. A Steering Group was appointed to undertake the plan preparation made up of both parish councillors and local volunteers.
3. This report is the outcome of my examination of the Submission Version of the Chailey Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Lewes District Council.
4. It will be appreciated that in the light of the COVID 19 crisis, a referendum cannot be held until at least May 2021. However, upon Lewes District Council issuing of the Decision Statement, under Regulation 18 of the Neighbourhood Planning Regulations, indicating how it intends to respond to my recommendations, the plan as modified can be accorded *significant weight* in development management decisions until such time as a referendum can be held.

## The Examiner’s Role

5. I was appointed by Lewes District Council in May 2020, with the agreement of Chailey Parish Council to conduct this examination.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Lewes District Council and Chailey Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

7. 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
8. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Chailey Neighbourhood Plan area.
9. In examining the Plan, the Independent Examiner is expected to address the following questions
  - 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?
  - 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.
  - 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?
10. I am able to confirm that the Plan does relate only to the development and use of land, covering the area designated by Lewes District Council, for the Chailey Neighbourhood Plan, on 17<sup>th</sup> March 2015, *if it is modified in accordance with my recommendations*.
11. I can also confirm that it does specify the period over which the plan has effect namely the period from 2019 up to 2034.
12. I can confirm that the plan does not cover any “excluded development”.
13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
14. Chailey Parish Council, as a parish council, is a qualifying body under the terms of the legislation.

## **The Examination Process**

15. 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.
16. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

17. I am satisfied that I can properly examine the plan without the need for a hearing.
18. I carried out an unaccompanied visit to Chailey Green, North Chailey and South Chailey, as well as the surrounding countryside, on 1<sup>st</sup> June 2020.
19. Following my site visits, I prepared a document seeking clarification on a number of matters from both the Parish Council and Lewes District Council entitled Initial Comments of the Independent Examiner dated 4<sup>th</sup> June 2020. That prompted an email exchange with the District Council regarding the need for a specific Habitat Regulation Screening and I requested that a specific document be prepared in order to comply with the relevant Regulations. I received responses from both the Parish Council and the District Council on 18<sup>th</sup> June 2020. The Parish Council's comments on the Regulation 16 representations were submitted on 19<sup>th</sup> June 2020. Based on the Parish Council's responses I had to seek further clarification on certain issues by email, to which I received a response from the Parish Council on 29<sup>th</sup> June 2020. The District Council responded to my question as to whether there are any locally listed buildings within the parish on that same day and I received a copy of the HRA screening report on 1<sup>st</sup> July 2020.

### **The Consultation Process**

20. The Steering Group, once formed, started off by distributing a questionnaire around the village. The total of 125 responses were received which revealed what were the best perceived features of the village and conversely the areas where there was scope for improvement. This helped with the preparation in the plan's vision statement.
21. The work involved in taking forward the plan was assigned to a number of task groups. Letters were distributed to local businesses and meetings were held with Chailey Heritage and Chailey Brickworks.
22. In 2016, the Steering Group attended the Village Day, where a draft version of the vision statement was presented. This was subsequently distributed to every household in the parish.
23. A further survey of residents took place at the 2017 St George's Day fete with 27 members of the public responded to questions posed.
24. A Housing Needs Survey was conducted in 2018.
25. All this activity led to the preparation of the Pre-Submission version of the plan which was the subject of a six-week consultation period, known as the Regulation 14 consultation. This ran from 17<sup>th</sup> May 2019 to 28<sup>th</sup> June 2019 and included three drop in sessions held at Chailey Village Hall. This consultation drew total of 29 responses, which are summarised in the Consultation Statement along with the proposed changes to the plan as a result of the responses.
26. I am satisfied that the Parish Council has actively sought the views of local residents and other stakeholders which has helped shape the plan. I would say that whilst the Consultation Statement sets out the timeline and the detailed responses at the Regulation 14 stage, the document would have benefitted from more information as to what the issues that emerged from the early stages of the community consultation were and how it shaped the agenda of the plan. I

appreciate that some information was contained within Further Evidence Collection, but it would have helped in constructing the narrative of how the plan has developed.

## **Regulation 16 Consultation**

27. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 12<sup>th</sup> February 2020 and 27<sup>th</sup> March 2020. This consultation was organised by Lewes District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
28. In total, 10 responses were received, from Lewes District Council, East Sussex County Council, Natural England, Environment Agency, Historic England, Highways England, Southern Water, South East Water, Gladman Developments Ltd and National Grid.
29. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

30. 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.
31. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
  - Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
  - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
  - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## **Compliance with the Development Plan**

32. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Lewes District Local Plan – Part 1 Joint Core Strategy, adopted

in 2016. The Part 2 Site Allocations and Development Management Policies was adopted in 2020 but that plan does not include strategic policies. The adopted local plan covers the period 2010 to 2030. Also, part of the development plan is the East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan and some saved policies from the Waste Local Plan and the Minerals Local Plan but as these latter plans covers mineral and waste matters which are “excluded development”, they are not relevant to this neighbourhood plan.

33. Within Part 1 of the Local Plan – the Joint Core Strategy, Chailey North, Chailey South and South Street are designated, within the settlement hierarchy, as “local villages” – settlements having few facilities and services and poor levels of accessibility to higher-order settlements. Chailey Green is categorised as a hamlet – settlements with a population of less than 100, having a historic core but generally lacking social infrastructure.
34. Spatial Policy 2 – Distribution of Housing established the minimum number of new homes at North Chailey as 30 net additional dwellings and a minimum of 10 net dwellings in South Chailey. In other settlements housing is restricted to rural exception sites or infill development within the planning boundary.
35. Core Policy 1 – Affordable Housing sets the thresholds for affordable housing below 10 units, above which the requirement is for 40% of homes. Core Policy 2 deals with Housing Type, Mix and Density and sets expectations for meeting the identified local housing need, highlighting the requirement for more one and two bed units for single person households and couples with no dependents.
36. Core Policy 4 encourages economic development and regeneration included within the rural economy. It sets criteria for the loss of employment uses and supports the conversion of existing buildings and the construction of appropriately designed new buildings for suitable business uses and tourism and farm diversification. Core Policy 5 supports sustainable tourism. Core Policy 6 deals with retail uses and specifically recognises the role of local shops and community facilities, which it seeks to retain unless not financially or otherwise, viable. It encourages new small scale rural retail and community services to meet local needs.
37. Core Policy 7 deals with infrastructure and resists the loss of sites or premises for community uses unless a number of factors are met. Core Policy 8 promotes a connected network of green infrastructure. Core Policy 10 seeks to conserve and enhance the district’s landscape assets, biodiversity and protection of statutory and local designated sites of ecological value. In terms of new development, Core Policy 11 requires high quality design which respects the character and distinctiveness of the district and responds to local context. Core Policy 12 seeks to steer development away from areas of flood risk, requiring the adoption of a sequential approach and exception test, which is consistent with national guidance. Sustainable travel is promoted in Core Policy 13, ensuring that the design of new development prioritises the needs of pedestrians, cyclists and public transport users.
38. The Lewes Local Plan Part 2 makes allocations within two settlements in Chailey parish, as the Parish Council has chosen not to use the neighbourhood plan to allocate sites. There are proposals for 16 units to be delivered at North Chailey

and 10 units in South Chailey. In the case of North Chailey, two sites are identified, 10 dwellings at Glendene, Station Road is identified in Policy CHO1 and Layden Hall, East Grinstead Road by Policy CHO2 for 6 units. There is only one site allocated in South Chailey – land adjacent to Mill Lane, for approximately 10 homes. This is covered by Policy CH03.

39. The plan also proposes a number of development management policies. Policy DM1 imposes planning boundaries which is shown on the Policies map. Inset Map 7 deals with South Chailey and Inset Map 12 includes a planning boundary around North Chailey and a separate boundary around the Chailey Heritage site.
40. Policy DM4 Residential Conversions in the Countryside supports the conversion of redundant farm and other rural buildings to residential uses subject to compliance with criteria. Policy DM9 supports farm diversification proposals. Policy DM 10 deals with small-scale employment development uses through building conversion or new buildings which make a more sustainable development proposal, subject again to meeting a range of requirements. Policy DM11 supports the principle of the redevelopment of existing employment sites in the countryside. Policy DM24 deals with the protection of biodiversity and geodiversity and includes a presumption against development that could have adverse impact on SSSI unless the benefits of the development outweigh the damage to the nationally recognised special interest of the designated sites. Design is covered by Policy DM 25 and landscape design with Policy DM 27.
41. Lewes District Council has confirmed to me that it considers all the policies in the Lewes Local Plan Part I to be strategic policies for the purpose of the basic condition relating to whether the neighbourhood plan policies are in general conformity with the strategic policies in the development plan.
42. For the purpose of the basic conditions I am satisfied that the plan, if modified in accordance with my recommendations, is in general conformity with the strategic policies in the adopted Lewes District Planning Framework.

### **Compliance with European and Human Rights Legislation**

43. Lewes District Council issued a Screening Opinion, in a document dated June 2017 which concluded that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required.
44. The District Council, as competent authority, had originally relied upon a Screening Report covering the Part 2 Local Plan and Neighbourhood Plans, which was prepared on its behalf by the consultants AECOM. This had concluded that as Chailey Neighbourhood Plan was not allocating sites then an Appropriate Assessment would not be required. My view was that was not an adequate form of screening as at that time the plan had not been produced and it was not possible to assess the impact of possible policies on European protected sites and did not constitute the necessary screening as required by Regulation 105 of the Conservation of Habitats and Species Regulation 2017.

45. I therefore requested the District Council as competent authority to assess the plan, as now submitted, to determine whether an Appropriate Assessment would be required. This was prepared and submitted to me on 1<sup>st</sup> July 2020. This concluded that the neighbourhood plan is unlikely to have any significant adverse effects on the any European Protected sites and that a Habitat Regulation Assessment would not be required. The nearest European protected sites are Lewes Downs SAC, Ashdown Forest SPA and SAC, Castle Hill SAC and Pevensey Levels Ramsar and SAC.
46. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

47. There are a number of recurring themes that emerge through this examination particularly in terms of how the neighbourhood plan has had regards to policies and advice issued by the Secretary of State, which is one of the basic conditions.
48. Paragraph 13 of the NPPF states that “neighbourhood plans should support the delivery of strategic policies contained in local plans (or Spatial Development Strategies) and shape and direct development that is outside these strategic policies”.
49. It goes on to establish requirements for plan making, bearing in mind the importance that is attached to the plan led system. Neighbourhood planning is a powerful tool in that it allows the community to prepare the planning policies which will be used by decision-makers, who are not necessarily the authors of the plan, to determine planning applications.
50. Paragraph 16 of the Framework requires plans to “contain policies that are clearly written and unambiguous, so that it is evident how a decision maker should react to a development.” There are instances where the Parish Council has suggested, particularly through its responses to my requests seeking clarification as to the intention of the policy, for example in terms of where information is found that a decision maker could refer to, say in the Character Assessment or in Annex 1 Maps, where the Parish Council stated that it expects to be able to consider each case on its merits, which is the antithesis of providing clear guidance to applicants and decision-makers (who will not be the Parish Council) in establishing a planning framework. A classic example is the question of whether it is appropriate for development to take place within residential gardens.
51. The Secretary of State goes on to say that plans should “avoid unnecessary duplication of policies that apply to a particular area (including policies in this Framework where relevant)”. Again, there is a major thread that runs through this examination where I have found many of the outcomes sought by the policies in this neighbourhood plan, are already covered by existing development

plan policy which is covering Chailey parish, whether it is in the Lewes Local Plan - Part 1 or Part 2 or indeed is covered by the NPPF.

52. The policies in Part 1 of the Local Plan – the Joint Core Strategy are all strategic policies, as set out by the District Council, which under the basic conditions, the neighbourhood plan is required to be in general conformity with. There is absolutely no value in having a neighbourhood plan policy that is essentially just repeating existing policy requirements. A neighbourhood plan policy clearly can build upon that strategic policy, by providing an additional local dimension as to how that strategic policy should be applied or to reflect the distinctiveness of the plan area.
53. Where there are non-strategic policies and there is a conflict with the district wide policies, then the neighbourhood plan policy will take precedence over the local plan, as the most recently adopted policy (once the plan has passed its referendum). However, if the neighbourhood plan is covering the same areas and is proposing broadly the same policy approach, then it is effectively duplicating the planning policy, which already is protecting the parish. An example of this is Policy HO1 which deals with development or planning boundaries which incorporates the maps from the local plan and requires compliance with development plan policy.
54. It is important that neighbourhood plans include locally distinctive policy, which can “shape, direct and help deliver development”. Paragraph 29 of the Framework states that “neighbourhood plans should not promote less development than set out in the strategic policies”. There are cases with this plan where the neighbourhood plan would appear not to support development this is already deemed acceptable in the Local Plan Part 1 and also the NPPF, for example in the case of the construction of new buildings for employment uses in countryside areas.
55. Further guidance on the drafting of policies is contained in the Secretary of State’s Planning Practice Guidance. He has said in the section of how a neighbourhood plan should be drafted, that “A policy in the neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that the decision maker can apply 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.”
56. A recurring theme throughout the examination is the lack of clarity as to how planning applications are expected to be determined. For example, a policy may refer to the retail core area, but the plan does not define what that core area comprises, and so there is uncertainty as to whether a property would be considered to be covered by that policy. Similarly, there is no definition of what the policies refer to as “historic buildings”. The objective of policy writing is to remove ambiguity as to whether a policy would be related to specific buildings. If, for example, a building is listed or locally listed or lies within a conservation area there is no ambiguity as to its status. What would be unacceptable, is if at development management stage, there is uncertainty and debate as to whether

a building would be considered as “historic”. That lack of clarity will be a matter for the decision maker and the applicant to grapple with, rather than the authors of the plan. Similarly, how would a decision maker know whether a particular route was a historic route unless it is defined on a map in the plan which shows where the policy applies or which field feature is to be treated as a mediaeval feature. Another example is whether a view is one that the plan wishes to protect. It is not possible to have that certainty if that viewpoint is not identified as being of importance to the local community.

57. It is against this background that I have had to make a number of my recommendations, either to remove elements or whole policies, where there is a lack of precision or clarity as to where a policy will apply, or where the policy has not been supported by appropriate evidence. These changes have all been necessary to allow me to conclude that the plan, when read as a whole, should go forward to referendum particularly with regard to compliance with the Secretary of State policy and advice relating to how neighbourhood plans should be prepared.
58. Having stated that, I believe that the neighbourhood plan, which seeks to protect the local character of this rural area and its landscape, which wishes to protect and enhance its retail and community facilities, guiding development to locations that can be serviced by non-car modes, requiring high design standards at the same time as allowing for new development in limited cases to meet local needs, will, taken as a whole, assist with the delivery of sustainable development, addressing individually and collectively the social, economic and environmental strands, which is another of the basic conditions.
59. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan will still read as a coherent planning document.
60. Following the publication of this report, I would urge the Parish Council and Lewes planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. There will also need to be editorial matters to resolve such as policy numbering as a consequence of my recommended deletions. It is also an opportunity to resolve many of the minor textual issues that have been raised by the District Council in the Regulation 16 representations.
61. I was requested by the Parish Council at the start of the examination to advise on whether it would be possible for the plan to be amended to include a paragraph to reflect the collective community response to the COVID 19 crisis. My role is to examine the plan as submitted and my recommendations must relate to the submitted version of the plan. However, I believe the sentiments being expressed can be included, as a reflection of the community’s appreciation, within the text of the Referendum Version of the plan, as it is not affecting the development plan policies. Whilst making no recommendation, as it is outside my remit as examiner that as far as I am concerned, there is no

reason that I am aware of, why the inclusion of the suggested paragraph could not be inserted at the next stage, with the agreement of Lewes District Council.

## The Neighbourhood Development Plan Policies

### Policy HO1 Development Boundaries

62. As previously referenced, the Secretary of State, in paragraph 16 f) of the NPPF states the plans should avoid "unnecessary duplications of policies that apply to particular area".
63. The Neighbourhood Plan Maps 8 and 9 merely import from the Local Plan the planning boundaries that already constitute adopted planning policy. It may have been the position that, whilst the neighbourhood plan was being prepared, the local plan was only draft policy, but now that it has been adopted then it is already part of the development plan. This is a point made by Gladman Developments in its Regulation 16 representations.
64. The first paragraph requires that "all new housing development should take place within the revised planning boundary". Yet in the second paragraph it is stated that the new housing development outside these boundaries will only be allowed, if it complies with the policies of the plan and the development plan, which is already protected in the area. The policy offers no specific local dimension to the policies which are already covering the parish. I can see no justification for a policy to require a proposal to have regard to the existing policies. I recommend that this policy can be deleted, as the objective of the policy already exists as part of the development plan.

#### *Recommendation*

***That the policy be deleted.***

### Policy HO2: Design

65. I consider this policy is a positive design statement on how development will be assessed through the application process. It seeks high-quality design which reflects local distinctiveness of the area, in line with the guidance set out in the NPPF. It supplements the guidance set out in Policy DM25 of the Local Plan Part 2, by reference to the aesthetic qualities of traditional rural settlements.
66. I do not necessarily agree that the characteristics of the buildings found in the two conservation areas are necessarily the template for establishing what constitutes the distinctive local context for development throughout the parish (although it is, within the respective conservation areas). I will recommend that this part of the policy be removed.
67. The Character Assessment is a useful description of the historical, landscape and townscape characteristics of the different settlements within the plan area. It does not purport to give design guidance or be a design code. Rather than being identified as a reference for assessing the impact of a proposal, I will recommend that the document be introduced within the main body of the text of the policy, to illustrate what are the characteristics of the traditional rural

settlements in Chailey Parish.

#### ***Recommendations***

***Delete all of the first sentence after “rural settlements” and insert “as described in the Chailey Parish Character Assessment”***  
***Omit the last paragraph***

#### **Policy H03: Housing mix**

68. As part of my Initial Comments I sought clarification as to who would be expected to *approve* "an *agreed* mix of 1,2 and 3-bedroom starter homes". The response from the Parish Council pointed towards an expectation that the District Council and the Parish Council would advise the applicant on the mix required.
69. Whilst I understand the desire of the Parish Council to be a party to such decisions, I do not consider that it can be a pre-requisite to the grant of consent. The relevant local plan policy, Core Policy 2 – relates to housing types and mix and then refers to schemes providing a range of dwelling types and sizes "to meet the identified local need based on available evidence". That is one of the strategic policies. I will recommend the removal of "agreed".
70. I have identified a possible lack of clarity in the policy drafting, as I was unclear whether the need for new housing to be designed to "lifetime homes principles" is applicable to the starter homes or only the housing aimed at the elderly. This has subsequently been clarified by the Parish Council, it does apply only to the elderly person accommodation, which I believe is justified.

#### ***Recommendations***

***In the first sentence, remove “an agreed” and insert “a”***  
***At the end of the first sentence after “elderly”, remove the comma and insert “which should be”***

#### **Policy H04: Building materials**

71. The first sentence of the policy relates to building design, which is covered by Policy HO2 and can be deleted from this policy, which deals with building materials.
72. I am concerned regarding the clarity of the requirement to “give priority to the use of local vernacular sustainable building materials”. Firstly, the policy is not specific as to which building materials it is referring to – does it go beyond the facings of the external elevations and the roofs or does it relate to items such as windows, rainwater goods? Secondly, how would a decision maker come to a judgement as to whether a particular building material is “sustainable” and indeed where it is to be sourced, may not be decided before planning permission is submitted? Does the policy cover other types of development, beyond new housing, for example would it be relevant to say all new agricultural buildings? I note that the supporting text refers to new residential development so for the sake of clarity, I will recommend, in line with the policy objective, that the policy only relates to new residential buildings. The policy is

too prescriptive through the use of “must” and I recommend the substitution of “should”, which will allow a degree of flexibility.

73. There is also an element of duplication within the policy, for example, the second sentence repeats support for sustainable building materials. Similarly, the second paragraph merely repeats previous requirements.
74. Whilst I appreciate the importance attached to the local tradition of brickmaking within the parish, I do not consider that it is appropriate for a planning policy to be requiring the use of bricks from the particular company or indeed bricks from a particular county. I note that the Design Report acknowledges that the other local bricks may be appropriate. I believe that the underlying requirement for materials to respect the existing character of the rural villages will achieve the policy aspiration and it would not be proportionate to require an applicant, within this parish to have demonstrate that the materials are ethically produced and from an environmentally friendly source. That would contravene the Secretary of State’s requirement, as set out in a Written Statement to the House of Commons dated 25<sup>th</sup> March 2015, that neighbourhood plans should not be imposing “any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings”.

#### ***Recommendations***

***Delete the first sentence of the first paragraph.***

***Replace the second sentence with “New residential buildings should use locally appropriate, external building materials, which reflect the existing rural character of buildings in the locality.”***

***Delete the third sentence.***

***Delete the second and third paragraphs.***

#### **Policy H05: Building heights**

75. The first three sentences are not actually a statement of planning policy but is just to be justification for having a policy. I would suggest that these points could be moved to supporting text.

#### ***Recommendation***

***Delete the first three sentences.***

#### **Policy H06: Pedestrian connections**

76. I sought clarification from the Parish Council as to its expectations of this policy. From the response to my Initial Comments, and additionally in its letter sent on 29<sup>th</sup> June 2020 in respect to my request for further clarification, it is clear that the Parish Council’s intentions for second element of the policy, is not actually placing a requirement on developers to promote walking, cycling and use of public transport or improve the local footpath network, despite the way that the policy is drafted. It is rather a statement that the intention is that the Community Infrastructure Levy will be used to fund such improvements, although it is not specific as to whether it is expecting it to be funded by the parish or the district council’s element of the receipts. That is not how the policy reads.

77. I consider that the first part of the policy, requiring new housing to be located so that residents can walk, for example, to public transport or other services, is a legitimate planning aspiration, which is broadly in line with national policy to delivery sustainable development. However, the second part of the policy as clarified by the Parish Council, is not a policy to be used to determine a planning application and is more an expression on how the community wishes the CIL receipts to be spent, which can be included in the neighbourhood plan, but not as a development plan policy. It could not be used to determine a planning application.

***Recommendation***

***Delete everything after the first paragraph.***

**Policy H07: Development of residential gardens**

78. The policy states that the Character Appraisal will be used to guide where, within the development (planning) boundary, development would be permitted. However, upon closer examination the Character Appraisal does not offer any indication as to whether or where development within gardens should be permitted or resisted. I have put this finding to the Parish Council and its response that this is “implied that the acceptability of the development of garden land will be considered by the Parish Council on a case-by-case basis.”

79. That is the most unsatisfactory position as the basis of the neighbourhood plan policy, as previously set out by the Secretary of State in the Planning Practice Guidance is that “a planning policy should be clear and unambiguous, so that a decision maker, can apply it consistently and with confidence when determine planning applications”. A policy position that proposals will be considered on a case by case basis, especially by the Parish Council which is only a consultee on planning applications, is not actually a policy for the development and use of land. It does not give an applicant or indeed a landowner any indication as to whether their proposals would say a subdivision of the garden within a settlement is likely to be granted permission. Equally a decision maker would be given no guidance as to how a development within a garden area should be viewed. That undermines the importance of the plan-led system. I do not consider that this policy meets the basic conditions and recommend that to be deleted.

***Recommendation***

***That the policy be deleted.***

**Policy H08: Conservation areas**

80. This policy covers two distinct areas of planning policy. Firstly, it addresses the protection of conservation areas within the plan area. Secondly, it deals with retail uses. This combination of policies is somewhat unusual and could disguise the intention of the policy and could mean that the policy dimension could be missed by some decision-makers, especially as the policy is headed “Conservation areas”.

81. In terms of conservation areas, the policy seeks to offer the same level of protection to sites which are either adjacent to, or within views to and from the conservation area, as to the areas actually within the conservation area. That goes beyond the specific duty imposed on planning authorities through Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention should be given to the desirability of preserving and enhancing the character or appearance of the conservation area. I therefore, do not consider that the policy tests should be the same for areas not inside the designated area. But I do recognise that on land which falls outside the conservation area, the impact of that development on the conservation area could be a material consideration, in respect of the impact could adversely affect the character and appearance of the conservation area. I will amend the policy accordingly.
82. The retail aspects of the policy refer to additional provision outside of the existing retail core but that core area is not defined, so it would be difficult for a decision maker to know whether that aspect of the policy applies to specific proposals. The Parish Council, in its response, confirmed that Chailey parish does not have a specific retail core, despite the way the policy is worded. It pointed to the McColl store in South Street and the closed Horns Lodge pub and also to the area around the Kings Head crossroads where there is the filling station and store/ repair garage, café and printing company, dental surgery and hairdresser. The policy, not only does not define the retail core, but it also refers to the village centre, but again that is not defined. As retail uses are more appropriately covered by Policy ECO1, I will recommend that the reference to the retail uses be removed from this policy, especially as there are currently no retail uses within either of the conservation areas.

### ***Recommendations***

***Delete from the first sentence “and sites adjacent to or with views from and into the conservation areas”***

***Insert a new sentence after the first sentence “Development on land adjacent to the conservation areas or which affect views from and into the conservation areas will not be supported if it detracts or adversely impact the special character of the conservation areas”***

***Delete the second sentence.***

***In the first sentence of the second paragraph, after “structures” insert “within the conservation area”***

### **Policy H09: Historic buildings**

83. Paragraph 190 of the NPPF, requires that the decision maker needs to identify and assess the *significance* of any heritage assets, including the impact of development within its setting.
84. The scope of the policy is vague when it comes to the conversion of buildings, in that it refers to “historic buildings or features”. However, an applicant, landowner, or decision maker needs to be clear whether the requirements of this policy apply to the relevant property. It is clear that listed buildings, locally listed buildings and buildings within the conservation area, come within the scope of

being heritage buildings; my concern is that other properties could be thought of, by some such as the Parish Council as “historic”, and the policy be applied to them. In that scenario, it could be that that view was taken only once a planning application is submitted. There appears to be no mechanism for a landowner to be informed that their building has been considered historic.

85. I questioned the Parish Council on this, in my Initial comments document. I was referred to paragraphs 1.4.27 to 1.4.37 and paragraphs 1.4.56 and 1.4.58. However, upon closer examination, it appears that all the quoted buildings are either listed or protected by being within a conservation area. The response also referred me to the Design Report, but that does not assist in identifying additional unprotected historic buildings. In its latest response, the Parish Council identified Roeheath as a historic building, but stated that it was not protected on the basis that the owner did not apply for it to be listed. In my experience, buildings are listed by the appropriate body on the basis of whether it is a building of architectural and historic interest, not whether the owner supports designation or not. There is a specific set of criteria for which buildings or features warrant listing.
86. In addition, Lewes District Council has advised me that there is only currently one locally listed building in the parish, which the NPPF would refer to as “a non-designated heritage asset” and that is Hole Farmhouse, Plumpton Road, North Chailey. I understand that the District Council is reviewing its local listed buildings and it could be that the Parish Council could promote the case for including Roeheath, or any other historic building, so as to give it some formal protection by planning policy.
87. I am satisfied that the intention of the policy meets the basic conditions but I will change the emphasis so is the impact on the *significance* of the building but also refer to “heritage assets” as defined by the glossary to the NPPF, rather than “historic buildings”, which is open to uncertainty as to what constitutes a historic building. It would also, then be consistent with the wording in Policy DM 33 of Local Plan Part 2.

### ***Recommendations***

***In the first sentence, before “listed buildings” insert “the significance of”***  
***In the second sentence, replace” “historic buildings or features (including traditional farm buildings)” with “heritage assets”.***

### **Policy HO10: Housing considerations**

88. I am concerned that the policy is supporting affordable housing only if it is shown that local need is not being met within existing affordable housing within or close to the village.
89. The policy also seeks to restrict the tenure of affordable housing, whether by rent or sale to those with the demonstrable local connection. However, the definition of affordable housing, as set out in the glossary of the NPPF, now include starter homes, which are not subject to any local connection policies or a need to be on the District Council’s housing register. Their provision is also promoted within Policy HO2. I do not consider that there is a specific justification within Chailey parish for taking a different approach to that found within Core Policy 1 of the

Lewis Local Plan Part 1, which refers to the “latest evidence of need in the *site’s locality*” to determine the mix. It could be used as an argument by some developers as a reason not to provide the appropriate percentage of affordable housing required, by one of the local plan strategic policies as the scheme could be assisting in meeting local housing need beyond the parish boundaries, and all housing including affordable housing is contributing to meeting the objectively set housing requirement for the district as a whole.

90. However, if development were to be promoted as rural exception sites in accordance with Policy DM2 of the Lewes Local Plan Part 2 then reference to local connections is an integral part of that policy and therefore does not need to be incorporated in this policy.

### ***Recommendations***

***Delete the remainder of the first sentence after “local need”***

***Delete the remainder of the policy after “future generations)”***

### **Policy ENV1: Landscape**

91. A neighbourhood plan policy cannot dictate which documents must be submitted with a planning application. That is a matter that can only be prescribed by the District Council in its local validation list. The policy states that the proposal will be informed by “landscape and visual impact assessment” - whilst that may be good practice is not something that can be required by policy.
92. I will recommend an alternative form wording that integrates the intention of the policy and the need for landscaping proposals into a positively worded policy. That will focus on the outcome expected from the policy rather than the procedural aspects as currently working.

### ***Recommendation***

***Replace the policy with***

***“New development will be supported which incorporates landscape proposals which will***

- Sympathetically integrate the development with its surroundings***
- Provide a landscape setting for the proposed building(s)***
- Create a high-quality environment.”***

### **Policy ENV2: Wildlife protection**

93. My only concern is that the final paragraph refers to the reference point for assessing the impact proposals have on wildlife protection, as the Character Assessment. However, I do not consider the document does that. When I put this to the Parish Council, it referred me to a different document, the Green Spaces of Chailey and in particular the section on Chailey Common. It pointed out that the majority of residents’ responses explicitly value Chailey Common. Again, this is another case of the policy not matching the Council’s stated reasons to justify the policy which is actually referring to the integration of development in such a way as to protect wildlife interest. I will therefore be recommending that the last paragraph be deleted.

94. The first paragraph refers to trees and hedgerows of “good arboricultural and amenity” being retained where possible, yet the second paragraph refers to trees of “arboricultural amenity interest”. This policy difference in wording has not been explained or justified, so I will propose, in the interest of clarity of its use in a development management context, that the requirements of the two paragraphs be amalgamated.

#### *Recommendation*

##### **Replace the policy with:**

**“Development proposals should be designed to retain trees or hedgerows of good arboricultural or amenity value, wherever possible, and proposals that damage or result in their loss will not be supported unless the benefits of the proposed development outweigh the amenity or arboricultural value of the trees and / or hedgerows. In addition, proposals will be expected to enhance the wildlife opportunities on the site by retaining or providing wild life corridors and stepping stones such as hedgerows, ditches, strips of tree planting, green open spaces with trees and grass verges to roads.”**

#### **Policy ENV3: Countryside protection and village setting**

95. This is a composite policy which appears to cover a wide range of matters:

- protection of landscape character
- protection of important gaps
- protection of green infrastructure network
- restoration of water courses to improve water quality and avoid risk of flooding
- use of local materials
- protect historic routeways
- protection of ancient woodlands
- protection of historic field boundaries, including medieval features.

96. Whilst this is a largely rural parish, there will be some developments which will have no relationship with the landscape character of the countryside. For example, a domestic extension in South Chailey, which is surrounded by houses on all sides would fall into that category. I will suggest that policy is caveated by “where it is relevant”.

97. The policy refers to protecting and enhancing the character of the important gaps between settlements. I would have expected to see any specific gaps identified on the map. I sought clarification from the Parish Council as to which gaps the policy was protecting and again its response was not consistent with what the plan implies. It stated that reference to “gaps” covered all the countryside outside the designated settlement boundaries. Such areas are already protected from inappropriate development by Policy DM1 of the Lewes Local Plan Part 2. I will therefore remove reference within the policy to the “important gaps”.

98. The reference to the Green Infrastructure Network implies, through the addition of “(as identified by the Local Planning Authority)”, that there is a defined network which has been identified by Lewes District Council. The response from

Lewes District Council is that the network has not been mapped and that the policies in the local plan refer to protecting green infrastructure, some of which may constitute network such as wildlife corridors. I am satisfied that the aspirations of this part of the policy are already achieved by Core Policy 8 of the Local Plan Part 1 and the reference to wildlife corridors and stepping stones in Policy ENV2.

99. I consider the second paragraph, referring to conserving or enhancing the natural beauty of the character, is essentially the same as the need to protect the landscape character of the countryside and I will recommend that it be removed as unnecessary duplication.
100. In terms of the element of the policy regarding watercourses, it refers to both reducing flood risk as well as improving water quality and enhancing wetland habitat. I consider that the aim to reduce risk of flooding is not as strong as set out in national policy and also Core Policy 12 of the Local Plan Part 1. I will therefore propose the omission of this part of the policy as it is not directly related to countryside protection and these matters are already adequately covered by existing policy, which is more closely aligned with the national approach to development decisions in areas at risk from flooding, which refers, for example, to the need to take a sequential approach to development in areas liable to flood.
101. Criteria 2 is a strange mix of a policy, requiring development to reflect the settlement pattern of the area, it then repeats requirements of Policy HO4 to use local materials and finally to support woodland management, which would only be relevant to development within the woodland context.
102. The third criterion protects historic route ways, but these are not shown on the maps in the Annex 1, as suggested in the policy. The protection of such routes should only be a material consideration for decision-making if there is clarity as to which are the historic route ways, but also whether they are different from public rights of way. A neighbourhood plan cannot protect public access or the integrity of the route if it is not a public right-of-way. I have been referred to the evidence in the Archaeology Report but that only refers to tracks within Memorial Common and otherwise existing roads and footpaths. The absence of specific information as to the specific historic route ways means that the policy cannot really be used as a policy with confidence. For the policy to have been capable of being retained, the location of the historic routes should have been shown clearly on a map with specific evidence of their significance. The Secretary of State states in the Historic Environment section of the Planning Practice Guidance that neighbourhood plans:

“It is beneficial for any designated and non-designated heritage assets within the plan area to be clearly identified at the start of the plan-making process so they can be appropriately taken into account”
103. The protection of ancient woodland duplicates the protection provided by paragraph 175d) of the NPPF and accordingly can be deleted as being unnecessary duplication. They are also covered by Core Policy 10 of the Local Plan Part 1.

104. The final criteria seek to protect the ecology and "productivity" of fields, trees and hedgerows and reinstate historic field boundaries and avoid mediaeval or earlier fields. It is not clear in what sense the word "productivity" is being used. I asked for information as to which are the medieval fields systems are to be protected by the policy as they are not shown on the maps in Annex 1. Again, the Parish Council has referred me to the Archaeology Report and has highlighted points 4, 5 and 6 on the parish scaled map in Appendix 2, but unfortunately it is not possible to identify which fields or indeed the extent of the land to be protected. On this basis, I do not believe that the submitted evidence is justifying the policy. When the Parish Council comes around to reviewing the plan in the future, it may wish to put forward a policy accompanied by maps and other information as to the specific features that the policy is seeking to protect.

#### **Recommendation**

##### **Replace the policy with:**

***"Development will be supported which protects the landscape character of the countryside outside of the planning boundary and, where relevant, the setting of the villages within that countryside."***

#### **Policy ENV4: Historic environment**

105. There is a degree of overlap between this policy and Policy HO9 dealing with historic buildings, however that is very much in the context of the use of buildings.
106. The first paragraph seeks to protect non-designated heritage assets but at this point in time, there is only one locally listed building in Chailey parish but the number could be added to in the future if the District Council undertakes the review, as it has indicated.
107. The test set out in the second paragraph goes beyond the balanced approach required in paragraph 197 of the NPPF and I will recommend a form of wording which considers the impact on the *significance* of the non-designated heritage asset.
108. The final paragraph seeks to offer protection to designated historic heritage assets, which have their own legislative protection in respect of listed buildings and ancient monuments. The plan refers to "historic public realm" but these are not identified or how they are designated so I will assume that the areas are those within conservation areas which are referred to later in the policy.
109. The policy requires these assets to be preserved and enhanced, but the Secretary of State in paragraph 189 to 196 refers to the assessing any harm to the significance of the asset and proposals that will result in substantial harm will need to be fully justified including an assessment of whether it will deliver substantial public benefits. If there is less than substantial harm the test is to weigh the harm against the public benefits including securing its optimum use. As submitted the policy goes beyond national advice and is more restrictive than set out in Local Plan Policy DM33 which provides a more nuanced approach envisaged by the Secretary of State, so I will recommend that the second part of the policy be deleted and the policy be entitled Locally Listed Building(s).

### **Recommendation**

#### **Retitle policy “Locally Listed Building(s)”**

***In the first paragraph, delete “SEE ANNEX 1: Maps”, replace “with” by “having” and insert “significance of the” before “heritage asset”.***

***Delete the last two paragraphs***

### **Policy ENV5: Conservation of the environment, ecosystems and biodiversity**

110. The policy imposes an expectation that *all* development will protect and retain all the environment, ecosystem and biodiversity, irrespective of its value. I consider that it is legitimate for that as an aspiration to be incorporated into the policy. However, the Secretary of State’s stance is that the protection of biodiversity should not be absolute, as paragraph 175 states that threshold should be set at *significant harm*, it should initially be seen whether the harm can be avoided, if not adequately mitigated and as a last resort is compensated, otherwise permission should be refused. I will introduce the possibility of mitigation into the policy.
111. The requirements to submit an ecological impact assessment is again not within the gift of a neighbourhood plan policy, but it is a matter for the validation checklist. However, a biodiversity checklist will be required by Lewes District Council for all major applications and specific categories of other development. I consider that the criteria set out in the policy should be used to consider and judge the adequacy of the information provided by the applicant.

### **Recommendations**

***In the second paragraph delete “should be informed by an Ecological Impact Assessment, and”***

***After “identify” insert “significant” and after “avoidance,” insert “mitigation,”***

### **Policy ENV6: Protection of open views**

112. The wide-open landscapes are a feature of this part of the Low Weald and particularly important is the relationship with the South Downs to the south. I consider that is reflected by the requirement to protect the open landscape character of the countryside.
113. In terms of the protection of views, I am not satisfied that the evidence is that there are specific key viewpoints, which merit specific protection beyond the wider landscape protection. The policy refers to the Character Assessment as a reference point but the only views identified are referred to in the context to conservation areas, which are shown in Appendices 2 and 3. That document is much more related to the townscape character assessment although in its topography section it does highlight some views. The policy also refers to views from Chailey Link Walk and the views over and from Chailey Common. If the plan would be specific as to particular viewpoints then I would expect the precise viewpoints to be shown on a plan or map.
114. I am afraid the information is too vague to be capable of being used in the development management context. Decision makers need to be aware of the

specific view point where a view is to be protected rather than “the natural rural views into and out of Chailey”. I have considered the photographs within the Green Spaces of Chailey report, but a number of these are actually aerial views as viewed from a drone, and others appear not to be particular viewpoint but representative views from a route. I will therefore conclude that the views of particular significance have not be sufficiently defined or substantiated, and I will remove reference to the Character Assessment. As a generic landscape protection policy, it can deliver an adequate level of planning control over the countryside.

***Recommendation***

***Delete all the text after the first sentence.***

**Policy ENV7: Dark night skies**

115. I have no comments on this policy.

**Policy ENV8: Chailey Common buffer zone.**

116. This policy appears to totally misunderstand the purpose of the SSSI Impact Risk Zones. As drafted the policy requires development proposals to establish a buffer zone!

117. Natural England has published its SSSI Impact Risk Zones around the SSSIs within the parish, which are to be used as the basis for deciding whether planning consultation with Natural England is required, depending upon the type of planning application and form of development being submitted. There are existing local and national level policies for considering proposals in and around SSSIs, as set out in paragraph 175b of the Framework, which states that development which has an adverse effect on an SSSI should not normally be permitted.

118. This policy does not add any local dimension or distinctiveness to the policy and accordingly I will be recommending that it is deleted.

***Recommendation***

***That the policy be deleted.***

**Policy COM1: Development contributions**

119. The purpose of the neighbourhood plan policy is to be used to determine planning applications. This policy is addressing how Community Infrastructure Levy receipts should be spent. That is, effectively a budgetary decision taken by the District Council or Parish Council. The aspirations of the Parish Council can be included within the policy document, but not as a development plan policy. I would suggest that the sentiments within the policy itself can be retained, but within the section dealing with non- statutory community aspirations as set out in paragraph 3.2.

***Recommendation***

***That the policy be deleted.***

### **Policy COM2: Community leisure/cultural facilities**

120. It is a requirement that neighbourhood plans should positively seek to shape development, I would therefore recommend that “normally” be omitted as it creates uncertainty as to how the development which complies with all planning policy should be determined.
121. The second sentence refers to offering encouragement and support for the continued use of community services, however the continuation of an existing use is not a matter that requires planning consent and therefore is not appropriate for a planning policy. I will be recommending that this part of the policy be removed.

#### ***Recommendations***

***In the first sentence delete “normally”***

***Delete the second sentence***

### **Policy COM3: Assets of community value**

122. The designation of a property as an asset of community value is not actually a planning designation, as its provisions relate to whether and how a property can be sold. However, I am satisfied that its status could be a material consideration, to the extent that the facilities remain designated as an asset of community value - which normally last five years. However, the designation as an asset of community value does not impose a block on development, only it allows the community an opportunity to bid for the purchase of the building, during a specified period. There would be no value, if the community is not in a position to acquire the premises, for the property to stand empty.
123. I will therefore amend the strongly resisted presumption, in terms of the loss of the asset, unless it is shown that the community cannot acquire the rights and a new use has to be found.
124. According to the information provided by Lewes District Council, there is currently only one property designated as an asset of community value in Chailey parish and that is The Horn Lodge Inn at South Chailey, whose designation runs until 8<sup>th</sup> March 2022. However, the policy could have a value, if in the future further facilities are designated as assets of community value.

#### ***Recommendation***

***At the end of the end of the policy insert “unless it is demonstrated that the local community has not been able to acquire the building or the building is no longer on the Register of Assets of Community Value”***

### **Policy TRA1: Sustainable Access- provision for public transport/cycling and walking**

125. The wording of the policy effectively mirrors the requirements set out in Policy HO6. There is no value in having a policy that duplicates another policy in the plan and I will recommend that this policy be deleted.

### ***Recommendation***

***That the policy be deleted.***

### **Policy TRA2: Road Safety**

126. Paragraph 108c of the NPPF sets the threshold of impact from development on the transport network (in the case of capacity and congestion) or on highway safety requiring mitigation, as a *significant* impact. As submitted, it could be argued that any additional traffic would require mitigation measures which would be over onerous and beyond the threshold set by the Secretary of State. I have seen no justification for adopting a lower threshold in this plan area.

### ***Recommendation***

***Insert “significant” before “impacts”***

### **Policy TRA3: Supporting Connectivity – Cycling and Walking**

127. This is a policy for supporting improvements which would be for schemes taken forward by the Highway Authority.
128. In many respects the first sentence of the second paragraph duplicates Policy HO6 and again can be deleted. I accept that the Parish Council has an aspiration for the installation of a particular pedestrian crossing, but that is unlikely to be the subject of a planning application, rather it will be covered by a Traffic Regulation Order. I am unclear how a planning proposal could “encourage” the construction of the crossing, unless it was on the basis that the development could generate the need for additional crossings in this location, but there would be no guarantee that the grant of planning permission could be dependent upon the delivery of that pedestrian crossing. As such it could not be a material consideration in determining a planning application.
129. This does not meet the requirements of being a policy for the use and development of land, capable of being used in the determination of a planning application. It could be appropriate to retain it within the plan but as a community aspiration rather than a development plan policy.

### ***Recommendation***

***That the policy be deleted***

### **Policy TRA 4: Adequate and appropriate car parking**

130. I consider that there needs to be some flexibility within the policy, where a proposal cannot meet the necessary parking standard, for example, a change of use or where the parking requirement is less than the current use. I will recommend changing “must” to “will generally be expected”.
131. This policy requires car parking, inter alia, to be in accordance with “recognised safety standards”, but the policy does not direct the decision maker as to what recommended safety standards are being referred to. Equally applicants cannot be expected to provide car parking, which meets “local identified need” in addition to the development’s parking requirement. It is not clear how that need is to be assessed and by whom. Accordingly, I do not consider that this part of the policy could be used with confidence in a development management setting.

132. Similarly, restrictions on on-street parking would normally be a matter dealt with by the Highway Authority as parking restrictions are a traffic regulation order matter. Similarly, there may be circumstances where providing access to development or providing off street parking requires the loss of on street parking. It would not be a practical proposition to include a presumption against the loss of on street parking, even if it is caveated by the use of “generally”.

#### **Recommendations**

**Replace “must” with “will generally be expected”**

**Delete “recognised safety standards” and “and local identified needs”**

**In the second paragraph, omit “on street and/ or”**

#### **Policy EC01: Retail provision**

133. The Parish Council should be aware that under certain circumstances retail premises can be changed to residential properties, without the need for planning permission. I will therefore recommend the policy be caveated by “where permission is required”. Equally there is no value in retaining empty retail premises if it is shown that there is no possibility of another business occupier being found.
134. The policy refers to proposals which enhances the “shopping offer”, however the planning system only controls uses by reference to Use Classes, which in the case of retail use Class A1, could cover a range of shop uses, with different goods sold, which can change without there being a material change of use. Therefore, the policy cannot refer to the consideration of the “shopping offer”, but I have no reason why the neighbourhood plan should not seek to encourage additional retail facilities particularly within “planning boundaries”.
135. There are currently no commercial premises within the two conservation areas. However, I recognise that under the terms of this policy, if such a proposal came forward, such an application is likely to be supported and it is appropriate to recognise that the introduction of any new shopfronts and associated signage should respect the character of the conservation area and if the proposal is re-introducing a retail use into a property that has retained a shop front, then the presumption should be, where possible, to require the reinstatement/ refurbishment of that original shopfront.

#### **Recommendations**

**Delete all text in the first sentence after “supported”.**

**Replace the second sentence with “Where planning permission is required, the conversion of retail units to residential use will be resisted, unless it is shown that there is no market interest in retaining its commercial use.”**

**Replace the second paragraph with “Retail or business proposals introduced into Conservation Areas will be expected to incorporate a shopfront, lighting and/ or external signage in a way that protects the character of the locality. Where the proposal reintroduces a retail use into a building which already has a historic shopfront, the presumption will be that the shopfront will be retained and if necessary restored.”**

## Policy EC02: Communications Infrastructure

136. This policy should apply to new buildings, rather than extensions or alterations to buildings. At the present time, the requirements are imposed on “all new development” which cover a range of activities and can include changes of use, engineering or other operations. To require the ability to connect some developments to the broadband network might not be appropriate.
137. The requirement that the ability of new premises to connect “without causing *retention* issues for existing residents” is somewhat unclear and is not explained. However, I suspect that the issue the Parish Council is referring to, is whether the increase usage of the available bandwidth could affect the speed of service of existing customers, will not be something that can be within the control of the developer, the delivery of broadband services is a matter for the telecommunications supplier. I will be recommending removal of a part of the policy.

### *Recommendation*

**Replace “development” with “buildings”**

**Delete all text after “broadband”**

## Policy EC03: Rural businesses

138. I have found this policy somewhat problematical in terms of compliance with the basic conditions, in respect of this policy dealing with rural business.
139. The scope of the policy only supports the reuse and conversion of rural buildings yet both local plan policy and paragraph 33 of the NPPF allows for the construction of well-designed new buildings. It would be assumed that the neighbourhood plan does not support new rural buildings, outside the planning boundary.
140. There is an apparent contradiction within the policy in that b) appears to rule out extensions to historic buildings, whilst in c) their extension is supported subject to meeting pre-requisites.
141. The policy places an obligation on applicants of non-heritage buildings to demonstrate that the building cannot be economically used for its original purpose. This is a more restrictive stance than adopted by the Local Plan and could hamper enterprise and innovation.
142. The final requirement, which supports changes of use of business premises in preference to residential use, is not consistent with Secretary of State advice which accepts the reuse of redundant or disused buildings to residential uses so long as it enhances immediate setting. Equally, Policy DM 4 - Residential Conversions in the Countryside policy within the Lewis Local Plan Part 2 supports those conversions.
143. My conclusion is that the policy does not meet the basic conditions, in that it is not consistent with Secretary of State advice and it would be more restrictive and deliver less development than set out in the strategic policies of the Local Plan Part 1, especially Core Policy 4, which would be contrary to the Secretary of State’s policy set out in paragraph 29 of the NPPF. No justification has been given

to justify why a more restrictive policy would be justified in Chailey Parish, compared to other rural parishes in the district.

144. My reading is that the policies in the Local Plan provide a set of comprehensive criteria for assessing business uses in the countryside and any modification I would recommend to bring the policy into line with basic conditions would add no local distinctive dimension to existing policy. I will accordingly recommend that the policy be deleted.

***Recommendation***

***That the policy be deleted***

**Policy ECO4: Employment retention**

145. I have no comments to make on this policy.

**Policy ECO5: Sustainability**

146. I have no comments to make on this policy.

**Policy ECO6: Encouraging employment and tourism**

147. My only comment is that the final support for community use needs to be consistent with the requirements of Policy EC04.

***Recommendation***

***At the end of the final paragraph insert “subject to compliance with the requirements of Policy ECO4”***

**The Referendum Area**

148. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Chailey Neighbourhood Plan as designated by Lewes District Council on 17<sup>th</sup> March 2015, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

**Summary**

149. I congratulate Chailey Parish Council and its Steering Group on reaching this important stage in the preparation of the neighbourhood plan. The plan will hopefully provide a sound basis for determining planning applications in the parish into the future.
150. I suspect the Parish Council may be somewhat disappointed with the extent of the modifications I have had to make but I am afraid that that they are necessary to ensure that the plan can be a relevant and clear basis for decision makers to determine planning applications. This is going to be an important document which will be used by a wide range of people and it is important that there is no ambiguity as to what polices apply in a wide range of situations. Without the

extensive modifications, the plan, when taken as a whole, would not have been able to be recommended to proceed to referendum.

151. To conclude, 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 that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
152. I am therefore delighted to recommend to Lewes District Council that the Chailey Parish Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
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14<sup>th</sup> July 2020