

## **Wivelsfield Parish Neighbourhood Plan 2015 – 2030**

### **Submission Version**

A Report to Lewes District Council of the Examination into the Wivelsfield Parish Neighbourhood Plan 2015 – 2030.

By Independent Examiner, Jeremy Edge BSc (Hons) FRICS MRTPI

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## 1.0 Introduction and Role of the Independent Examiner

- 1.1 Neighbourhood Planning is an approach to planning which provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Report sets out the findings of the examination of the Wivelsfield Neighbourhood Plan 2015 – 2030, submission version, (the Plan).
- 1.2 The Parish of Wivelsfield comprises Wivelsfield village, Wivelsfield Green and West Wivelsfield, within the Lewes District Council’s administrative area of East Sussex. The settlements are about 9 miles, (15.0 km) north of Brighton and Hove. The parish lies in the Low Weald north of the South Downs National Park. It is one of the larger parishes in the county and includes several woods and small farms south of Haywards Heath.
- 1.3 The Plan describes local noteworthy services and features as being the Village Green, Village Hall, Recreation Ground, Primary School (Wivelsfield) and Parish Church, whilst higher level shops, services and recreational offers are to be found at Burgess Hill and Haywards Heath, some 3 miles to the west and north respectively. Haywards Heath provides a direct rail link to Gatwick and London mainline stations in addition to Brighton, Eastbourne, Portsmouth and Southampton. Rail services to the south coast are also available from Burgess Hill and Wivelsfield stations, (Wivelsfield station I note is situated out-with the Parish, some 2 miles from Wivelsfield Green.
- 1.4 The Plan further briefly describes the historical context of the Parish, with activity dating from prehistoric times in addition to evidence of Celtic, Iron Age, Roman and Anglo-Saxon habitation and the subsequent agrarian activity on the Low Weald, which in part remains today. The Plan advises that the population of the Parish in 2011 was 1980 persons of whom some 71.5% were economically active. It would appear from the demographic information, the Parish comprises a marginally greater proportion of persons engaged in professional and managerial employment, although the employment profile is broadly similar to that of the District as a whole.
- 1.5 The Consultation Statement explains that Wivelsfield Parish Council (WPC) voted to undertake the preparation of a Neighbourhood Plan in Spring 2013 and following application of the entire Parish to be included within the Neighbourhood Plan Area, this was approved on 17 July 2013 Lewes District Council (LDC). The Parish formed a steering group in October 2013 comprising the Parish Councillors and community volunteers. The Terms of Reference for the Steering Group are set out in Appendix B to the Consultation Statement.
- 1.6 My role as an Independent Examiner, in considering the content of a neighbourhood plan, is limited to testing whether or not the draft neighbourhood plan meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a neighbourhood development plan or to examine other material considerations. Paragraph 8 of Schedule 4B to the Town & Country Planning Act 1990 (as amended) [excluding 2b, c, 3 to 5 as required by 38C (5) of the Planning and Compulsory Purchase Act 2004 (ad amended)], states that the Plan must meet the following “basic conditions”;
- it must have appropriate regard for national policy;
  - it must contribute towards the achievement of sustainable development;

- it must be in general conformity with the strategic policies of the development plan for the local area;
- it must be compatible with human rights requirements and
- it must be compatible with EU obligations.

1.7 In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the examiner must make a report on the draft plan containing recommendations and make one of the following three recommendations:

- (a) that the draft order is submitted to a referendum, or
- (b) that modifications specified in the report are made to the draft order and that the draft order as modified is submitted to a referendum, or
- (c) that the proposal for the order is refused.

1.8 If recommending that the Plan proceeds to a referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the WNP Area, to which the Plan relates. I make my recommendations at the end of this Report.

1.9 I am independent of the qualifying body, associated residents, business leaders and the local authority. I do not have any interest in any land that may be affected by the Plan and I possess appropriate qualifications and experience.

## 2.0 **Basic Conditions**

2.1 I now consider the extent to which the Plan meets the “basic conditions”. A Basic Conditions Statement was prepared in January 2016, (Version: Wivelsfield NP BCS v 6.4). It explains the requirements of the Wivelsfield Neighbourhood Plan to meet the basic conditions tests, what these comprise and how the Plan meets these tests, including the contribution that the Plan makes towards the achievement of sustainable development and its conformity with the strategic policies for the development of the area. This Statement has been supplied to me by Lewes District Council, together with the other examination documents including the Plan, the Consultation Statement, the replies to the Regulation 16 consultation and a Sustainability Appraisal incorporating Strategic Environmental Assessment and related non-technical summary.

2.2 The Basic Conditions Statement demonstrates how the Neighbourhood Plan conforms with the provision made under sections 61E (2), 61J and 61L of the Town & Country Planning Act 1990, as amended by the Localism Act 2011. I am content that the Wivelsfield Neighbourhood Plan (Wivelsfield NP), has been submitted by a qualifying body, Wivelsfield Parish Council, in accordance with the Localism Act 2011. Wivelsfield Parish Council is therefore a qualifying body entitled to prepare a neighbourhood plan.

2.3 Wivelsfield NP covers the entire Parish. I am content that the Wivelsfield NP meets the requirements of The Town & Country Planning Act 1990, s 61 G in relation to the designation of the Plan area and

that the proposed Neighbourhood Plan does not relate to more than one neighbourhood area and that there are no other Neighbourhood Development Plans in place within this neighbourhood area.

2.4 Paragraph 2.1 of the Basic Conditions Statement explains that the primary objective in commencing the preparation of the Plan in 2013 was to....“*anticipate and manage the proposals in the emerging Local Plan, most notably the desire for the WNP to identify sites for a minimum of 30 new homes at Wivelsfield Green in the plan period.*” In addition, also at paragraph 2.1, the Basic Conditions Statement explains that, “*The Parish Council also wishes to have greater influence over the quality of local development and to promote the sustainable development of the parish*”.

2.5 I note that the Joint Core Strategy was adopted following examination on 11<sup>th</sup> May 2016 by the Lewes District Council.

## 2.6 **Regard to the National Planning Policy Framework (NPPF)**

2.7 In relation to the presumption in favour of sustainable development, the NPPF advises that all plans should be based upon this presumption with clear policies that will guide how the presumption should be applied locally. Paragraph 16 of the NPPF acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. In particular 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. The Basic Conditions Statement asserts that the Neighbourhood Plan is planning positively by delivering new housing on allocated sites that is in excess of the minimum target for Wivelsfield Green as set out in the Joint Core Strategy.

2.8 The Basic Conditions Statement refers to the requirement in the NPPF at paragraphs 183-185. The NPPF explains at paragraph 183, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:

- set planning policies through neighbourhood plans to determine decisions on planning applications; and
- grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.

2.9 The Wivelsfield Consultation Statement at paragraph 4.3 demonstrates that the WNP “*establishes a clear vision for the parish that reflects the view of the majority of the local community*”. In considering the overall reaction to the draft Pre-Submission version of the Plan the Basic Conditions Statement indicates that of the total resident’s responses, 83% considered that the Neighbourhood Plan had identified the important aspects of life in Wivelsfield, and 60% supported it. In particular, the Parish Council has sought to translate the vision into a series of meaningful planning policies to plan for housing growth and to determine future planning applications as part of the development plan.

2.10 Paragraph 184 of the NPPF requires that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Provided that neighbourhood plans do not promote less development than set out in the relevant Development Plans, or undermine the strategic policies, neighbourhood plans may shape and direct sustainable development in their area. It is clear from the Basic Condition Statement that the District and Parish Councils believes the Wivelsfield Neighbourhood Plan is in general conformity with the strategic policies of the 2003 Plan as well as the newly adopted Joint Core Strategy, striking a positive balance between the physical and policy constraints of the Parish and the requirement to meet local housing demand. Helpfully, the Basic Conditions Statement sets out how each of the thematic policies conforms with the provisions of the NPPF in a tabular format (Table A).

2.11 The Wivelsfield NP Basic Conditions Statement systematically sets out how the Plan meets the NPPF guidance based on the principal topic areas cross referenced to the draft WNP policies. Subject to my comments in section 5 of this report, in relation to various policies of the Plan, I am generally satisfied that the Plan has adequate regard to the national guidance.

#### 2.12 **Contribution to Sustainable Development**

2.13 At paragraph 7, the NPPF defines the three dimensions to sustainable development as being, economic, social and environmental; the NPPF sets out the roles that the planning system is expected to perform in relation to each. The Wivelsfield NP contributes to the achievement of sustainable development as defined within the NPPF, as outlined in the Sustainability Appraisal, in particular in sections 6 -9 inclusive, undertaken in January 2016 having regard to the submission version of the Plan.

2.14 I consider that this approach offers a clear analytical framework to test the credentials of the draft plan and consider that the Plan would properly contribute to the objective of sustaining sustainable development, subject to various policy amendments that I have recommended in this report.

#### 2.15 **Conformity with the Strategic Policies for the local area**

2.16 The statutory development plan currently relating to the Wivelsfield NP area comprises:

##### **1) The Joint Core Strategy**

The Core Strategy was adopted by Lewes District Council on 11 May 2016 and by the South Downs National Park Authority on 23 June 2016, following submission for examination in September 2014 and Hearing Sessions in January 2015 and December 2015 and subsequent to publication of proposed Main Modifications and consultation. The approach to the preparation of the Wivelsfield Neighbourhood Plan has been to ensure general conformity with both the saved policies of the adopted Local Plan (2003) and the Joint Core Strategy (JCS) to ensure that the Plan remains relevant following adoption of the JCS. This is demonstrated within the Basic Conditions Statement, Table C, the Development Plan Conformity Summary. This sets out how the Wivelsfield NP conforms with the strategic policies of the 2003 Plan and the now adopted JCS.

2.17 I am satisfied that the Neighbourhood Plan is in general conformity with the strategic policies in the JCS.

2.18 **Conformity with European Union Obligations**

2.19 In relation to the Wivelsfield NP, Lewes District Council provided a screening opinion in February 2015 confirming that a Strategic Environmental Assessment was not required for the Wivelsfield Neighbourhood Plan. An update to the SEA Screening Opinion was subsequently published in July 2015 changing the original decision to confirm that a SEA was required. The Basic Conditions Statement explained that this was due to:

- Updated National Planning Practice Guidance, including with relevance to Wivelsfield NP where the guidance states a neighbourhood plan may be required where sites are being allocated for development and where a neighbourhood plan is likely to have significant environmental effects, not already been considered through a sustainability appraisal of the Local Plan; and
- That a SA/SEA of the Lewes District Local Plan Part 2 had not yet been prepared

2.20 In relation to the second bullet point above, I understand that Lewes District Council is currently in the process of preparing a Local Plan Part 2 which, amongst other policy areas, will allocate development sites to meet the strategic requirements of the Joint Core Strategy (Local Plan Part 1). I am advised that the Local Plan part 2 will be supported by a Sustainability Appraisal (incorporating SEA) which will appraise potential residential sites against the sustainability framework.

2.21 I am informed that the draft Local Plan Part 2 and accompanying Sustainability Appraisal are expected to be published for consultation later this year. I understand that due to there being no published draft Local Plan Part 2 or Sustainability Appraisal, and in light of the February 2015 NPPG guidance update, a decision was made by the Council to amend the screening opinion to require a SEA in support of the neighbourhood plan. At this point Lewes District Council made a decision requiring all NPs allocating sites to prepare a SEA.

2.22 The Regulation 16 consultations indicated that a number of parties were discontent with the way in which the SEA had been conducted and the findings. For this reason, I held a hearing concerning the preparation of the SEA, inviting the relevant Regulation parties to expand upon their views, to ascertain whether the Plan should fail the Basic Conditions test. A hearing was convened and took place at Wivelsfield Parish on 9<sup>th</sup> May 2016. In advance of that hearing, Lewes District Council provided a brief Pre Hearing Statement, explaining the reasons why the Sustainability Appraisal incorporating SEA had been undertaken and the method employed and the reasons for that approach. The Statement explained that in the light of the advice in the NPPG, February 2015, clarifying where a SEA may be required for a neighbourhood plan, two such instances where the guidance states a neighbourhood plan may be required is where sites are being allocated for development and where a neighbourhood plan is likely to have significant environmental effects not already been considered through a sustainability appraisal of the Local Plan. Lewes District Council then required all NPs in its administrative area allocating sites to undertake SEA. This was confirmed in LDC's SEA/HRA Guidance document which was shared with qualifying bodies.

- 2.23 It is therefore apparent that the primary reason for the Wivelsfield Neighbourhood Plan undertaking a SEA was to fully consider and appraise the reasonable alternatives with regard to potential housing sites against a sustainability framework. This requirement has been fully met as can be seen from Section 8 of the Wivelsfield Neighbourhood Plan SEA. I therefore consider that a proportionate and focussed approach has been taken through the SEA process for the Wivelsfield Neighbourhood Plan.
- 2.24 The SEA Directive and NPPG guidance is clear in that a SEA Environmental Report need only be as detailed as appropriate to the content and level of detail of the neighbourhood plan. An environmental report must identify, describe and evaluate the likely significant effects on the environment of implementing the neighbourhood plan policies and of the reasonable alternatives taking into account the objectives and geographical scope of the neighbourhood plan. NPPG guidance goes on to state that reasonable alternatives must also be sufficiently distinct, realistic and deliverable.
- 2.25 The SEA regulations and guidance does not require reasonable alternatives for each and every policy area in a neighbourhood plan. In the event Gladman who had considered that the preparation of the SEA failed to comply with the SEA regulations in its Regulation 16 submission, submitted further representations before the hearing although elected not to attend. The central issue raised by the Regulation 16 objectors was the extent to which the SEA had considered “reasonable alternatives” in the preparation of and informing the Plan. It is evident that in the early stages of the preparation of the Plan, there had been no intention to undertake SEA by the Parish Council and that by reference to the Council’s scoping opinion, this was expressly not required. The Council acknowledged that alternative approaches were only considered by the SEA for some of the policies in the Wivelsfield Neighbourhood Plan. The Council considered in most cases, no reasonable alternatives were identified or identifiable. However, reasonable alternatives were appraised for Policy 1 (referenced through the Joint Core Strategy SA) and Policy 2.
- 2.26 Lewes District Council and Wivelsfield Parish Council issued a statement tabled at the Hearing (Appendix 1) which drew attention to the fact that none of the statutory environmental bodies (Environment Agency, Natural England and Historic England) raised any concerns relating to the assessment of reasonable alternatives, or proposed any additional reasonable alternatives to any of the policies, during the WNP Draft SEA consultation (November 2015) or Regulation 16 consultation (February 2016). The Councils indicated that they were firmly of the belief that the requirement for neighbourhood plan SEA’s to appraise ‘reasonable alternatives’ had been met.
- 2.27 Concerning sustainability appraisal, the view expressed in Boyer’s representations at the Hearing and Regulation 16 response was that Regulation 12 (2) of The Environmental Assessment of Plans and Programmes Regulations 2004, requires the preparation of an environmental report that identifies, describes and evaluates the likely significant effects on the environment of implementing the plan or programme and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme. In particular the consultant argued that the SEA needs to compare the alternatives including the preferred approach, and assess these against the baseline environmental characteristics of the area and the likely situation if the neighbourhood plan were not to be made and that the SEA should predict and evaluate the effects of the preferred approach and reasonable alternatives. Boyer’s concern on behalf of Wates Developments submitted representations in December 2015 acknowledging that whilst a sustainability appraisal of the preferred policy approach



had been undertaken, no comparative assessment of reasonable alternatives to the preferred policy approach had been undertaken contrary to Regulation 12. Boyer claimed that following the consultation on the Sustainability Appraisal the submission version continued to omit any assessment of reasonable alternatives to the preferred approach and is therefore contrary to the basic conditions requirement.

- 2.28 The advice in the NPPG on SEA is set out in paragraphs 026-045 inclusive.
- 2.29 The advice in paragraph 029 states; *“Where it is determined that a neighbourhood plan is likely to have significant effects on the environment and that a strategic environmental assessment must be carried out, work on this should start at the earliest opportunity. This is so that the processes for gathering evidence for the environmental report and for producing the draft neighbourhood plan can be integrated, and to allow the assessment process to inform the choices being made in the plan.”* In the case of the Wivelsfield NP, this has been undertaken retrospectively. This is not an ideal solution since the assessment process inevitably is likely to involve some post hoc justification, but this is not to say that this would not be objective and I am aware that this approach has been undertaken successfully elsewhere, for example at Southbourne, Chichester, indeed at a later stage in plan preparation than in the Wivelsfield case. It is fair to say that once the decision to undertake SEA was made, the process was completed within a reasonable time frame and the results have enabled the policies to be informed by this work, despite some criticism as to the scoring ascribed to some likely environmental effects.
- 2.30 Furthermore, the guidance in the NPPG at paragraph 030, is that *“The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan”*. Based on this advice to take a proportionate approach, the process adopted which might be regarded as “light- touch”, appears reasonable in this context. In addition, the NPPG advises at paragraph 030, that it is for the local planning authority, in this case Lewes District Council, to ensure that the strategic environmental assessment requirements have been met and whether the neighbourhood plan proposal is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive).
- 2.31 Having reflected on the objections raised at the Hearing and the Regulation 16 replies in addition to the further Statement tabled and reviewed at the Hearing by the District and Parish Councils, I am of the opinion that in relation to sustainability appraisal, including Strategic Environmental Assessment, the analysis undertaken is sufficient in a neighbourhood planning context and following on from the recent work undertaken in informing policy development for the Joint Core Strategy that the Basic Conditions have been met in contributing to sustainable development and meeting this component of EU regulation.
- 2.32 **Habitat Regulations Assessment**
- 2.33 A Habitats Regulations Assessment Screening Report was undertaken by Lewes District Council officers to determine whether the Neighbourhood Plan was likely to impact on the integrity of

European protected sites within and surrounding the district. The HRA Screening Report concluded that this was unlikely to be the case and so no further assessment was required. I agree that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007, either alone or in combination with other plans or projects.

#### 2.34 **Compatibility with human rights requirements**

2.35 The Basic Conditions Statement considers that Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. The Basic Conditions Statement considers that Plan also complies with the Human Rights Act 1998. I concur with that view.

### 3.0 **Background Documents**

3.1 In examining the Wivelsfield Neighbourhood Plan, I have had regard to the following documents in addition to the Submission Version of the Plan:

- a) National Planning Policy Framework, March 2012
- b) National Planning Policy Framework, Planning Practice Guidance
- c) Town and Country Planning Act 1990 (as amended)
- d) The Planning and Compulsory Purchase Act 2004 (as amended)
- e) The Planning Act 2008
- f) The Localism Act (2011)
- g) The Neighbourhood Planning Regulations (2012)
- h) Statement of Basic Conditions
- i) Benefits of green infrastructure - Report by Forest Research, 2010, Prepared by Land Regeneration and Urban Greenspace, Centre for Forestry and Climate Change, Forest Research, Farnham, Surrey
- j) R. (Maynard) v Chiltern District Council, [2015] EWHC 3817 (Admin), Holgate J, 16th November 2015
- k) Woodcock Holdings Ltd v Secretary of State for Communities and Local Government, [2015] EWHC 1173 (Admin), [2015] JPL 1151, Holgate J, 1st May 2015
- l) Appeal by Bluemark Projects Ltd against the decision of Lewes District Council, LW/14/0790 made on 10 October 2014, APP/P1425/W/15/3135335,  
<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3135335>
- m) Lewes District Council and South Downs National Park Rural Settlement Study, January 2013,  
[http://www.lewes.gov.uk/Files/plan\\_RuSS\\_2012.pdf](http://www.lewes.gov.uk/Files/plan_RuSS_2012.pdf)
- n) Lewes District Council And South Downs National Park Authority - Landscape Capacity Study - September 2012

- o) Haywards Heath Town Council Neighbourhood Plan: Our Bright Future – Submission Doc  
[http://www.midsussex.gov.uk/media/76733/haywards\\_heath\\_neighbourhood\\_plan.pdf](http://www.midsussex.gov.uk/media/76733/haywards_heath_neighbourhood_plan.pdf)
- p) Wivelsfield Parish Neighbourhood Plan 2015-2030 Site Assessment Report January 2016

#### 4.0 **Public Consultation and The Consultation Statement**

4.1 Part 5 of The Neighbourhood Planning (General) Regulations 2012, “the Regulations”, makes provision in relation to procedure for making neighbourhood development plans. To fulfil the legal requirements of Section 15(2) of Part 5 of the Neighbourhood Planning regulations 2012, the consultation statement should contain the following:

- details of people and organisations consulted about the proposed Neighbourhood Plan;
- details of how they were consulted;
- a summary of the main issues and concerns raised through the consultation process; and
- descriptions of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.

4.2 The Consultation Statement should also demonstrate that there has been proper community engagement and that it has informed the content of the Plan. It should also make it clear and transparent that those producing the plan have sought to address the issues raised during the consultation process. Consultation and community engagement is a fundamental requirement of the Neighbourhood Planning Regulations, the process of plan-making being almost as important as the plan itself. Such engagement with the community during the plan-making process has raised awareness and encouraged the community in the Parish understand and in some cases query the draft policies as well obtain knowledge of the Plan's scope and limitations.

4.3 The Consultation Statement sets out in some considerable detail the events that took place to secure public engagement in the Plan area and with statutory consultees. I note that in October 2013 a Steering Group was formed comprising the Parish Councillors and community volunteers. Subsequently a straw poll was completed to ascertain and identify the topics and subjects which were considered to be the most important to the community in the forthcoming Plan period and Focus Groups for Housing and Development; Infrastructure, Facilities and Local Economy; Environment and Countryside were established and strengthened in February 2014 by additional volunteers from the community. In the following months leading up to July 2014 considerable activity ensued with a village survey being undertaken to inform the Plan, culminating in a village day on 12<sup>th</sup> July 2014 when progress on the plans topics was displayed to the wider community. The Consultation Statement charts the progress and activities to the end of the year by which time engagement had occurred with Lewes District Council and who had indicated by December that there was general satisfaction with the progress of the draft Plan.

4.4 I note that the Draft Plan Regulation 14 Consultation Period ran between 16 February 2014 until 29 March 2014 and that during that period an impressive programme of information dissemination about the draft Plan was undertaken together with further meetings to explain the emerging proposals. At the end of the consultation period, the detailed responses were analysed. The

Consultation Statement demonstrates that of the 217 total resident's responses, 83% considered that the Neighbourhood Plan had identified the important aspects of life in Wivelsfield, and 60% supported it. But that only 53% said that in a referendum they would vote for the plan as it then stood; 41% would vote against it. The difference between the general support and the specific voting intention was attributed to a group which opposed some of the sites preferred for possible housing development in the plan.

4.5 The Consultation Statement records the regulation 14 responses to the draft policies and reflects on the views from the statutory consultees and assistance Lewes District Council on draft policy formulation. Importantly, the Consultation Statement explains the actions taken to the comments received in a tabular form with a view to responding to local concerns with the intention of enhancing the overall Plan. I further note that the Parish obtained further advice from Rcoh consultants on the preparation of the Plan and additional assistance from Lewes District Council. In June 2015, the issues that were causing residual concern appeared to be:

- a) whether the Site Assessment Report which was considered by LDC to be insufficiently robust as an evidence document; and
- b) whether there was the need for the NP to include a Sustainability Appraisal incorporating a Strategic Environmental Assessment.

4.6 The Consultation Statement records that it was resolved that the Site Assessment Report would be completely rewritten, building on the findings of the initial report, and would fully document and detail the methodology undertaken in the site selection process. The District Council offered to make available the services and support of the Neighbourhood Planning Officer resource to help with the production of this revised document and to ensure its compliance with relevant planning policy, guidance and legislation. Also, it was further resolved that the Neighbourhood Plan would require the undertaking of a Sustainability Appraisal incorporating a Strategic Environmental Assessment; again the District Council offered the services and support of the Neighbourhood Planning Officer to help with the production of this document and to ensure its compliance with relevant planning policy, guidance and legislation. The Consultation sets out the further assessments that were then undertaken.

4.7 The Consultation Statement does not cover the Regulation 16 Consultation, however these have been made available to me by the District Council and I have taken these into consideration in the examination of the Plan and the draft policies.

4.8 I am satisfied that the Consultation Statement complies with Section 15(2) of part 5 of the 2012 Neighbourhood Planning Regulations and that the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act, in accordance with 15(1) of part 5 of the 2012 Neighbourhood Planning Regulations.

## 5.0 **Wivelsfield Parish Neighbourhood Plan 2015 – 2030 – Land Use Planning Policies**

- 5.1 I now turn to consider the land use planning policies of the Wivelsfield Parish Neighbourhood Plan. It was established in *R. (Maynard) v Chiltern District Council*<sup>1</sup> that it is wrong to consider each policy within a neighbourhood development plan examination, in the context of compliance with the strategic policies of the development plan and the NPPF, in relation to Basic Conditions a) and e), but rather it is the Plan as whole that needs to be considered in the context of such policy guidance, in terms of “general conformity”. Similarly, in *Woodcock*<sup>2</sup>, paragraph 8(2)(e) of Schedule 4B of the 1990 Act only required the LPA to consider whether the draft Neighbourhood Plan as a whole is in general conformity with the adopted Development Plan. It is not concerned with whether there is a tension between one policy of the Neighbourhood Plan and one element of the Local Plan or Core Strategy. I have used this approach in assessing overall whether Plan meets the Basic Conditions.
- 5.2 However, I consider that it is still prudent from an implementation perspective, to briefly review each of the policies to ensure that they are genuine land use planning policies and that they will serve the Parish in future for development management purposes, in the event that the Plan were to be made.

**Policy 1: A Spatial Plan for the Parish**

**The Neighbourhood Plan defines development boundaries at Wivelsfield Green, and Theobalds (east of Burgess Hill) on the Policies Map for the purpose of directing future housing, economic and community related development to within those settlements to enhance their role as sustainable communities and encouraging the re-use of previously-developed land and of land of a similar character that currently detracts from the appearance of a settlement.**

**Proposals for housing development outside the boundaries will only be granted if they are consistent with the countryside policies of the development plan.**

- 5.3 This policy reflects sets the scene for the housing policy, Policy 2, and to a lesser extent, the other policies in the Plan. The Basic Conditions Statement points to paragraphs 110 and 111 of the NPPF, in demonstrating conformity and compliance with national planning policy, by minimising pollution and other adverse effects on the local and natural environment and allocating land with the least environmental or amenity value. I understand that Lewes District Council recommended revisions to this policy during consultation, as indicated in the Consultation Statement. The policy was generally supported during the Regulation 14 consultation, the support rate being about 70%.
- 5.4 Objections to Policy 1 were raised by Gladman and Thakeham Homes Ltd. Gladman’s objections to Policy 1 relate to a perceived inflexibility, that the defined settlement boundary will constrain future sustainable development of land beyond the settlement boundary. This objection would carry weight if it was evident that there was insufficient opportunity within the defined settlement boundary to meet anticipated housing growth within the settlement over the Plan period. Notwithstanding issues over the appropriate selection of sites, which I am aware has been an issue in the preparation of this Plan. Policy 2 of the recently adopted Joint Core Strategy, regarding the distribution of housing within

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<sup>1</sup> [2015] EWHC 3817 (Admin), Holgate J, 16th November 2015

<sup>2</sup> *Woodcock Holdings Ltd v Secretary of State for Communities and Local Government*, [2015] EWHC 1173 (Admin), [2015] JPL 1151, Holgate J, 1st May 2015.

the district council's area identifies a need for a minimum of 30 net additional units within the Plan period in this locality and that *"individual sites to meet the planned levels of housing provision will be identified in either the District Council's Site Allocations and Development Management Policies DPD, or the National Park Authority's Local Plan. Neighbourhood Plans could also be used to identify the individual sites."* It would appear that on the basis of need defined by the housing numbers sought within Wivelsfield over the plan period that this minimum amount could be provided within the defined settlement boundary. Furthermore, the policy does allow some flexibility which would facilitate development beyond the defined settlement boundary, subject to the proposals being consistent with the countryside policies of the development plan.

5.5 The representations of Thakeham Homes Ltd, which appear largely supportive of the Plan nonetheless claimed that at the point that these were made the Plan was inconsistent with the emerging Joint Core Strategy. Since that time the Core Strategy has been adopted and it appears to me that Lewes District Council's support for Policy 1, articulated in the Basic Conditions Statement, following the redrawing of the development boundary at Wivelsfield Green to incorporate the allocated housing sites successfully enables the policy to accommodate the housing growth proposed by Joint Core Strategy of a minimum of 30 dwellings at that village. I accept that the choice of places to amend the boundary was defined by a thorough site assessment and Sustainability Appraisal process, as well as by the local community expressed preferences during the consultation exercises informing the Plan.

5.6 I further note the comprehensive support for this policy from the Campaign to Protect Rural England, (CPRE) Sussex.

5.7 Taking these representations into account, I recommend that Policy 1 is appropriate for development control purposes for the achievement of sustainable development and that no amendment to Policy 1 is necessary.

#### 5.8 **Policy 2: Housing Site Allocations**

5.9 Policy 2 is the housing site allocation policy within the Plan. The Basic Conditions Statement assesses this policy as being in accord with NPPF paragraph 50 of the NPPF in contributing to the supply of a mix of new homes to meet local needs by allocating land for housing development adjoining the designated development boundary of Wivelsfield Green. I agree that the policy conforms to paragraphs 58 and 59 of the NPPF by requiring high quality schemes at these sensitive locations but avoids being too prescriptive and placing a burden on future proposals that may render them unviable. The Basic Conditions Statement confirms that the land promoters have confirmed the land is available for housing development. Therefore, the policy provisions should prove deliverable and therefore would accord with paragraph 173 of the NPPF. The Policy reads as follows:

#### 5.10 **Policy 2: Housing Site Allocations**

**All sites submitted by landowners were assessed against a set list of criteria, which can be found in Section 6 and 7 of the Site Assessment Report. This included a thorough assessment against various social, economic and environmental criteria (as seen through the Suitability Assessment) and against issues of particular importance to local residents (as seen through the Acceptability Assessment). Of particular importance to the community were the following attributes: - Sustainable, small site(s), ideally on brownfield land that are not a prelude to gross expansion,**

**within or adjacent to the settlement boundary, having respect of areas identified as greenfield sites and accommodated sensitively within the landscape.**

**Development proposals for housing at the following sites, as shown on the Policies Map, will be supported, subject to them having regard to the development principles outlined:**

**i. Land at Springfield Industrial Site, West of B2112, provided:**

- a. the scheme comprises approximately 30 dwellings of a mix of predominantly 2 and 3 bed homes for younger and downsizing households, including affordable homes in accordance with development plan policy;**
- b. the scheme layout avoids land subject to flood risk;**
- c. the scheme layout avoids land that is in close proximity to the adjoining waste water treatment works. Development should not occur in any part of the site that would be subject to unacceptable odour effects. An odour assessment impact assessment has been undertaken by the applicants to confirm this is not a problem;**
- d. the landscape scheme extends the depth of the existing belt of trees around the edge of the site and makes provision for a public open space for the enjoyment of the residents of Wivelsfield Green; and**
- e. the design of the proposals accords with Policy 6 and with other relevant policies of the development plan.**
- f. Suitable and safe pedestrian access is achieved across the B2112 to village services**
- g. Development should provide a connection to the nearest point of adequate capacity in the sewerage network**

**ii. The First Site on Land at Hundred Acre Lane provided:**

- a. the scheme comprises approximately 2 dwellings that have a frontage to Hundred Acre Lane; and**
- b. The landscape scheme provides a soft edge to the adjoining countryside.**

**iii. The Second Site on Land at Hundred Acre Lane, provided:**

- a. the scheme comprises approximately 2 dwellings that are proximate and relate well to the existing cluster of buildings at Coldharbour Farm;**
- b. Access is achieved using the existing access to Coldharbour Farm; and**
- c. The landscape scheme provides a soft edge to the adjoining countryside.**

**All of the housing site allocations will be required to adhere to the Lewes development plan policy on the provision of affordable housing.**

5.11 Despite the policy support from Lewes District Council in the Basic Conditions Statement, there were a number of concerns and objections raised by third parties in a number of Regulation 16 responses during the pre-examination consultation. The objection from Mr and Mrs Gittings raised concerns

about the impact of new development on infrastructure capacity and landscape quality in addition to the risk of further accidents on the local road network. These are legitimate concerns, however having regard to the comments of statutory consultees and the draft policy proposals to mitigate the potential planning harm raised in this objection, I consider that an appropriate balance has been struck in ensuring that the design of the housing development that might be permitted, particularly on land at the Springfield Industrial Estate should be acceptable if it meets the provisions of the draft policy. I further note that CPRE Sussex commends and supports the land at the Springfield Industrial Site for new development.

- 5.12 An appeal was made by Bluemark Projects Ltd against the decision of Lewes District Council (application reference LW/14/0790 made on 10 October 2014) to refuse planning permission at Springfield Industrial Estate, Ditchling Road, Wivelsfield on 21 May 2015 in relation to a planning application in for 31 houses (a net gain of 30 units). During the Hearing, a draft unilateral undertaking was signed by the relevant parties, along with an amended ‘red line’ plan showing a reduced site area, omitting the land forming part of the garden of Hey Cottage together with and a revised indicative layout for 30 dwellings (i.e. a revised net gain of 29). The inspector in reaching her decision made express reference to the allocation of this site in the draft neighbourhood plan and gave the draft policy weight in reaching her decision to allow the amended proposal. Her decision<sup>3</sup> (Appeal Ref: APP/P1425/W/15/3135335) was made on 12th April 2016.
- 5.13 The two other allocations are proposed on two sites on land at Hundred Acre Lane, the first site having access direct to the lane, the second being back-land which would use a private access via Coldharbour Farm. As I understand matters, these two sites were somewhat confusingly known as Site 10, during the “call for sites” phase as shown in the Consultation Statement at page 37, dated 26<sup>th</sup> May 2014. These sites are also identified as, “Two plots adjacent to Site 2, Hundred Acre Lane”, in the Housing & Development Focus Group - Closing Report for the Focus Group, June 2014. It is clear from the Sustainability Assessment which refers to “sites”, that these were assessed together, although the commentary within the SA is somewhat ambivalent in relation to their sustainability. In this regard, I have considered the letter of objection, made in response to the Regulation 16 from B Nicholls which raises concerns of proximity of the potential new development at site 2(ii) to neighbouring property alleged loss of privacy in the event of development of houses or bungalows to the occupants of the Pump House, Dairy, Kiln Cottage and the Old Barn close by. To mitigate these concerns, in the event that development was to take place on either of these sites, in order to afford some protection to neighbours from loss of amenity, the application of Policy 5 of this Plan should encourage the decision maker to ensure that adequate protection is afforded to neighbouring owners and occupiers of Sites 2ii and 2iii, whilst balancing the need to provide limited additional housing within the village.
- 5.14 I note that CPRE Sussex supports these housing allocations in Policy 2 in its Regulation 16 consultation reply.

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<sup>3</sup> <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3135335>



5.15 Whilst not specifically referring to the site selection process leading to the housing site allocations, there were a number of pre-examination consultation responses which covered identical themes, making similar points from Petra and Jean Carroll, Richard and Sue Morris, Ruth Forsyth Mr & Mrs Whelan and Audrey Wende. These objectors raised concerns over the sustainability assessment scores attributed to Sites 1 and 4, being Land north of Slugwash Gardens, Slugwash Lane comprising about 0.9 acres and three plots adjacent to Site 1 at Slugwash Lane comprising 0.5 acres. In the event sites 1 and 4 were not chosen as site allocations. There are however, no specific objections to Policy 2 from these parties.

5.16 I note from the Consultation Statement that the landowner of Coldharbour Farm owns the access to Site 2iii. The Consultation Statement indicates that the Steering Group is continuing to investigate the landownership however there is no suggestion as far as I am aware that the lack of direct access to a public highway may preclude development and in any event, the other Policy 2 sites would be sufficient in meeting identified need in the event that site 2iii failed to be brought forward for development.

5.17 Accordingly, I consider that the draft housing allocations to be reasonable and that Policy 2 should prove acceptable for development management purposes. I consider that the policy requires no alteration or amendment.

5.18 **Policy 3: Education**

**Development proposals for the extension of Wivelsfield Primary School, as shown on the Policies Map, will be supported, provided:**

- i. Any buildings are of an appropriate scale and in a location to avoid compromising the open character of the land to the west of the site;**
- ii. avoid disturbance to the amenity of local residents by way of noise and light pollution; and**
- iii. make provision for appropriate access and car parking.**

5.19 Policy 3; Education conforms to Core Policy 7 of the Joint Core Strategy. It is supported by Lewes District Council in the Basic Conditions Statement. I note that policy scored well against the sustainability framework, in the Sustainability Assessment and no modifications were made to the policy following the Draft Neighbourhood Plan or SEA consultation. In relation to the Regulation 16 consultation, no objections were raised concerning Policy 3. I conclude that Policy 3 would be suitable and effective for development management purposes and therefore propose no alterations to it.

5.20 I am grateful to Mr Kay of CPRE Sussex for picking up the error in the index to the Plan at page 3, referring to “K. WNP Policies Map – Wivelsfield Primary School Cartilage 52”, which should read “Curtilage”. I trust this will be picked up subsequent to this examination if the Plan is to be taken further.

5.21 **Policy 4: Community Facilities**

**Proposals to improve the viability of an established community use of the following buildings and facilities by way of the extension or partial redevelopment of existing buildings will be supported,**

**provided the design of the scheme and the resulting increase in use are appropriate in design terms and will not harm the amenities of adjoining residential properties:**

- i. Wivelsfield Village Hall, off Eastern Road**
- ii. Sports Pavilion, adjacent to the Village Hall**
- iii. Village green, adjacent to the Village Hall**
- iv. All places of worship –**
  - a. St Peter & St John the Baptist, Church Lane**
  - b. Ote Hall Chapel, Ditchling Road**
  - c. Bethel Chapel, Ditchling Road**
  - d. The Church of Jesus Christ of the Latter Day Saints, North Common Road**
- v. Wivelsfield Church hall, Church Lane**
- vi. Wivelsfield Londis Shop, North Common Road**
- vii. Wivelsfield Post Office, North Common Road (located within vi above)**
- viii. The Cock Inn Public House, North Common Road**

**Proposals that result in the loss of an existing local employment or business use, will be resisted, unless it can be demonstrated that its continued use is no longer viable. Proposals to expand an existing employment or business use will be supported, provided their impact on flood risk, local amenity, traffic and landscape can be satisfactory mitigated and any unavoidable harm to the significance of a heritage asset is robustly justified.**

- 5.22 As with Policy 3, no objections arose during the pre-examination consultation of the draft Wivelsfield Parish Neighbourhood Plan in relation to Policy 4. The Plan explains that Policy 4 serves two purposes: it supports development proposals intended to secure the long term benefit of a range of facilities that are important to the local community and it seeks to protect those facilities from unnecessary loss. The policy recognises that in order to remain viable some local businesses will require investment in updating and/or increasing the size of the facility to support new uses and that this will have a land use planning impact.
- 5.23 Policy 4 sits comfortably with Core Policy 4 of the Lewes District Local Plan Part 1, Joint Core Strategy 2010 - 2030 – Encouraging Economic Development and Regeneration. This provides further guidance on the appropriate approach to viability testing as an adjunct to protecting rural businesses. As indicated in the Basic Conditions Statement, Policy 4 is also compliant with Core Policy 6, which seeks to support retail activities, although the Local Centres specified in Policy CP 6 appear to be at a higher level than Wivelsfield in the retail hierarchy within the District Council's area. I further note the helpful comment from Historic England thanking the Qualifying Body for incorporating the need to justify unavoidable harm to heritage assets for proposals requiring consideration under Policy 4.
- 5.24 Again, I consider that this policy should prove to be effective for development management purposes in meeting the purposes outlined in the Plan and set out in paragraph 5.16 above without the need for amendment or alteration.
- 5.25 I now turn to Policy 5 concerning design matters:
- 5.26 **Policy 5: Design**

**Development proposals will be supported provided their scale, density, massing (the general shape and size of a building), height, landscape design, layout and materials, including alterations to existing buildings, reflect and enhance the character and scale of the surrounding buildings and of distinctive local landscape features, including trees, hedgerows, moats, boundary ditches, ancient hedge banks, track ways and drove roads. New development will be required to integrate with its surroundings and, where possible, should provide linkages to existing public access routes and nearby green spaces.**

**Development proposals in the Wivelsfield Green Area of Established Character, as shown on the Policies Map, will be supported provided they have paid special regard to characteristics of the area.**

**Proposals for the development of land within or adjoining the designated Wivelsfield Conservation Area, including proposals for the alteration of or addition to an existing building and structure within or adjoining the Conservation Area, must demonstrate that they have had special regard to the guidance of the adopted Conservation Area Appraisal.**

**Proposals for housing development must provide an appropriate number of car parking spaces as guided by the highways authority parking calculator but as a minimum must provide two off-street car parking spaces per dwelling unless a clear case can be made for why the proposed nature of the occupation of the dwellings will result in fewer spaces being required.**

- 5.27 The Consultation Statement explains that the earlier version of Policy 5 dealing with design matters was considered to be overly restrictive by Lewes District Council and as a consequence, the draft policy was revised to comply with the suggestions made by the local planning authority and Historic England, the latter recording their satisfaction and thanks with regard to the consideration proposals against the adopted conservation area appraisal as a requirement within the Policy 5, being particularly pertinent as a number of the community assets included within this policy may also be considered as non-designated heritage assets in future. I note that this policy was supported by CPRE Sussex.
- 5.28 This Basic Conditions Statement explains that Policy 5 requires all development to deliver high quality schemes reflecting the distinct character of the parish and the Conservation Area and that environmentally sensitive areas should be respected and the green gaps between the settlements in the Parish and those in neighbouring parishes should be maintained. Policy 5 is therefore in accord with Core Policy 10 (Natural Environment and Landscape) and Core Policy 11 (Built and Historic Environment & Design) of the newly adopted Joint Core Strategy. I note that this policy seeks to shape both the appropriate design of new buildings and also their surrounding spaces to prevent urbanisation by resisting the loss of trees and hedgerows to create visibility splays or new footpaths.
- 5.29 Again, there were no substantive objections to Policy 5 received during the pre-examination consultation phase and the policy scored well in the Sustainability Appraisal particularly against the social and environmental objectives, where Policy 5 seeks to protect and enhance the parish's valued built environment. The Sustainability Appraisal acknowledges that modifications made to Policy 5 following the Draft Sustainability Appraisal consultation have resulted in amendments to the appraisal

resulting in a now neutral impact against objective 5, seeking to avoid private car travel and encourage sustainable forms of transport.

- 5.30 Mr Kay on behalf of CPRE Sussex has drawn attention to the wording of Policy 5 which could be interpreted literally as lending support to any development proposal anywhere in the parish that met the design criteria listed. I agree that to avoid ambiguity the second paragraph of the policy text should be revised as indicated in the text in red below:

**“Development proposals in the Wivelsfield Green Area of Established Character, as shown on the Policies Map, will be supported provided they have paid special regard to characteristics of the area and otherwise satisfy the policies of this Plan.”**

- 5.31 Subject to the minor policy amendment above, I therefore consider that Policy 5 should prove effective for development management purposes in relation to design matters within the Plan area.

5.32 **Policy 6: Green Infrastructure & Biodiversity**

**Where appropriate, development proposals must contribute to and enhance the natural environment by ensuring the protection of local assets and the provision of additional habitat resources for wildlife and green spaces for the community. This should include enhancing ecological networks and linking habitats where possible.**

**Appropriate surveys must be undertaken where new development is likely to impact on protected species.**

**Development proposals that enable the protection and enhancement of the key features of the Parish landscape, such as the farmlands, woodlands, hedges, ponds, wildlife corridors and other natural heritage sites, will be supported**

- 5.33 Core Policy 8 of the Joint Core Strategy on Green Infrastructure explains that the local planning authority will promote a connected network of multifunctional green infrastructure by protecting and enhancing the quantity, quality and accessibility of open spaces throughout the district to be achieved by the following 5 criteria:

- 1) Identifying in the Site Allocations and Development Management Policies where there is potential for the enhancement or restoration of existing green infrastructure and opportunities for the provision of new green space.
- 2) Ensuring that development maintains and/or manages identified green infrastructure, where appropriate.
- 3) Requiring development to contribute to the green infrastructure network and make provision for new green infrastructure and/or linkages to existing green infrastructure, where appropriate.
- 4) Resisting development that would undermine the functional integrity of the green infrastructure network or would result in the loss of existing green spaces, unless either mitigation measures are incorporated within the development or alternative and suitable provision is made elsewhere in the locality.

5) Working in partnership with other organisations to increase walking, cycling and public transport access to the countryside.

5.34 Policy 6 applies Core Policy 8 to the specific rural characteristics of the Parish. As stated in the Plan and Basic Conditions Statement, Policy 6 encourages management and maintenance of rural infrastructure and to enhance bio diversity. This policy has not surprisingly scored highly in the Sustainability Appraisal against the environmental objectives as the aim is to contribute to and enhance the parish's green infrastructure and biodiversity, with no adverse impacts being identified and a significant positive impact against the ecological objective.

5.35 Support for this policy has been provided by CPRE Sussex in its Regulation 16 consultation reply and there were no objections to this policy were made as part of this consultation.

5.36 Accordingly, I am of the opinion that this policy is appropriate for development management purposes without amendment.

#### 5.37 **Policy 7: Local Green Spaces**

5.38 I now consider Policy 7, concerning the proposed designation of Local Green Spaces. This policy matter generated considerable interest prior at the pre-submission consultation (Regulation 14) and subsequently during the Regulation 16 consultation, following the publication of the examination version of the Plan. The examination version of the Plan included five Local Green Spaces shown on Policies Map M, the draft Plan policy being framed as follows:

##### **Policy 7: Local Green Spaces**

**The Neighbourhood Plan designates Local Green Spaces in the following locations, as shown on the Policies Map M below:**

- i. Land to the south of Green Road and west of Wivelsfield Primary School;**
- ii. Land to the south of South Road;**
- iii. Land to the east of Eastern Road;**
- iv. Land to south of Antye House and east of Orchard Close;**
- v. Land on north-west boundary of Parish;**

**Proposals for development on the land that is not ancillary to the use of the land for public recreational purposes or that it not required for statutory utility purposes will be resisted.**

5.39 Unqualified support was given by Mr Kay on behalf of CPRE Sussex for all of the proposed 5 sites in meeting the selection criteria. He described the sites as being highly valued by residents and contributing to Wivelsfield's sense of place. Whilst not objecting to the actual sites proposed in the submission version of the Plan, a number of residents objected to the way in which the proposed sites were selected and scored for inclusion as Local Green Spaces. Such concerns were raised by Audrey Wende, Mr and Mrs Whelan, Petra and Jean Carroll, Richard and Sue Morris and Ruth Forsyth in this regard. The comments raised by Mr & Mrs Whelan alleged that posters promoting Green Spaces (shown in the Consultation Statement at Appendix F, P44), were insufficiently distributed around the village, and failed to explain the relevance or importance of identifying Green Spaces. This criticism claimed that even at the time of the Submission version consultation of the Plan, *"most residents towards the East and North of the village are unfamiliar with the principles and purpose of Green*

*Spaces. Proposals for allocating green spaces are consequently based on an insufficient evidence base and still appear to be creating a green belt on large tracts of land to the south of the village. 87 % the community survey responses indicated accessible and open spaces are important which the current spaces are not.*” The Regulation 16 consultation made by Victoria Wood, similarly criticised the scoring system in relation to the possibility of the inclusion of Bluebell Wood. Jeremy Harding similarly raised concerns and objection to Policy 7 during the pre-examination consultation of the plan indicating that the site selection was made upon an inadequate evidence base.

5.40 Detailed objections were raised by Boyer Planning and Gladman in relation to the proposed Local Green Space designations. In the light of the policy concerns raised during the Regulation 16 consultation, I requested that the Local Green Spaces proposed should be considered at the Hearing at which matters relating to SEA were also discussed. The Hearing took place on 9<sup>th</sup> May 2016 in Wivelsfield Church Hall. Boyer Planning, Gladman and Jeremy Harding were invited to this session together with representatives of the Parish Council and Lewes District Council. In the event Gladman declined to attend. The agenda relating to the Local Green Space policy consideration posed two questions:

- For each of the Local Green Spaces, do they meet the three criteria for designation in paragraph 77 of the NPPF?
- In the event that any or all of the proposed Local Green Space designations came into effect, how would the land be managed?

5.41 Prior to the Hearing I had managed to view the proposed Local Green Spaces with the exception of site iv, Land to south of Antye House and east of Orchard Close, which I viewed accompanied by representatives of the Parish Council, District Council and Boyer Planning during the mid-morning adjournment prior to the session at which the Local Green Spaces were considered.

5.42 The national planning context for designating Local Green Spaces is set out in the NPPF at paragraphs 76 and 77. There is further guidance provided in the NPPG at paragraphs 005—022 inclusive. The effect of designating Local Green Spaces is “able to rule out new development other than in very special circumstances.” (NPPF, paragraph 76) and the guidance at paragraph 77 advises that Local Green Space (LGS) designation “will not be appropriate for most green areas or open space.” The national policy sets out three tests to assist in determining whether land should be designated as LGS. The clear advice in NPPF paragraph 77 is that:

“The designation should only be used:

- where the green space is in reasonably close proximity to the community it serves;
- where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- where the green area concerned is local in character and is not an extensive tract of land.”

5.43 In addition, the NPPG at paragraph 014 explains that; “The proximity of a Local Green Space to the community it serves will depend on local circumstances, including why the green area is seen as

*special, but it must be reasonably close. For example, if public access is a key factor, then the site would normally be within easy walking distance of the community served.”* In relation to new residential development, the NPPG advises that this may include green areas planned as part of the development and that they *“.....could be designated as Local Green Space if they are demonstrably special and hold particular local significance”* (NPPG paragraph 12).

- 5.44 The objections from Gladman raised in relation to the proposed areas of LGS in the Wivelsfield Neighbourhood Plan focused on the size of the proposed areas of land being individually between 3.5 and 8.6 ha in extent pointing to other neighbourhood plans where proposed areas of LGS were found to be unacceptable based on areas less than those promoted in the Wivelsfield Neighbourhood Plan. I note that the guidance in the NPPG indicates that at paragraphs 15 and 16 that there are no hard and fast rules over the size of LGS and size will be a matter for local discretion and judgment, but there is no minimum size. To comply with the third test in the NPPF at paragraph 77, suitable LGS sites, should be local in character and not comprise an extensive tract of land. I further note that the examples given relating to land that might be included within areas of LGS in the NPPG at paragraph 13, *“....could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis.”* These areas suggest sites that are smaller than the fields that are promoted in this neighbourhood plan.
- 5.45 The consideration given to the assessment of the proposed areas of LGS in Boyer Planning’s Regulation 16 consultation response has reviewed and expressed doubt as to the rigorousness of the approach adopted by the Steering Group in making the LGS allocations in the draft Plan. This has been echoed by other local respondents as I have indicated in paragraph 5.39 above. The Consultation Statement records the call for areas that might be suitable as Green Space / Local Green Space, although it is not apparent that the general public were made aware at the time of the criteria for determining whether land should be designated LGS, or what this might mean in relation to future use and management.
- 5.46 Running through each of the proposed LGS sites during the Hearing, I was advised that Site i), Land to the south of Green Road and west of Wivelsfield Primary School, had been strongly supported by East Sussex County Council during the Regulation 14 consultation due to the proximity to the village primary school which overlooks the sweep of this attractive landscape close to the centre of the village. I was also advised that the landowner has entered into a stewardship scheme in relation to this site and Site iii in the event that LGS designation was to occur. The site is close to the war memorial and I was further informed by the Steering Group that it is seen as being an integral part of the village, performing the function of a visually sensitive gap.
- 5.47 Concerning LGS proposed site ii) Land to the south of South Road the adequacy of the evidence base was questioned by Mr Ross of Boyer Planning and Mr Harding. Mr Ross considered the site to have no special qualities, no recreational value and no special ecological or wildlife value and therefore it did not qualify as LGS in relation to the NPPF tests in paragraph 77. By contrast, my attention was drawn to Lewes District Council’s Settlement Study 2013<sup>4</sup> and the fact that this had been common

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<sup>4</sup> Lewes District Council and South Downs National Park Rural Settlement Study, January 2013

land since 1626. The Rural Settlement Study describes the landscape character as being gently undulating with areas of cover from hedgerows, hedgerow trees and small woods, with larger tracts of woodland to the eastern and southern sides of the settlement, some being designated as ancient woodland. The effect is to shorten some of the views southwards and provide an element of containment from the wider landscape. The study explains that much of the existing settlement pattern of Wivelsfield Green is fragmented and dispersed, created with the gradual merging of two discrete areas of development. The western part of the village being predominantly linear in form transitory in character and largely centred around the recreation ground, while the eastern side has developed with the infilling of land between two roads and feels more central due to the built form and the location of many of the villages facilities.

- 5.48 Proposed LGS Site iii, being land to the east of Eastern Road, comprises a backland field. Whilst it may be regarded as special to those who occupy dwellings that back onto it, I am not persuaded from my inspection of the locality that this landholding meets the tests in paragraph 77 of the NPPF other than being in close proximity to the community which it serves. I note that proposed LGS Sites i and iii appear contiguous and that the western end of Site ii is separated by a short distance of about 100 metres by dwellings fronting Hundred Acre Lane, South Road and the Primary School from Site i. Whilst it might be argued that each of these three areas have distinct landscape characteristics, were these three sites to be designated as LGS, this would effectively create an extensive tract of open land to the south of the designated settlement area which would not be the intention of NPPF policy.
- 5.49 None of the comments in the Rural Settlement Study 2013 lead me to conclude that there are overriding special qualities in relation to historic significance, recreational value, tranquillity or richness of wildlife that would warrant designation of these sites as LGS. However, Site i has a demonstrably special quality to the local community to the extent as explained to me at the Hearing that it creates a visually sensitive gap between Wivelsfield and Wivelsfield Green thereby enhancing the distinctiveness of the two settlements and is therefore of particular local significance. It offers an attractive outlook due to the fold in the landscape, appreciated in the Regulation 14 comments by East Sussex County Council in supporting this designation. A stewardship scheme is in place for the effective management of this land as LGS in the future. For these reasons I recommend that Site i would be appropriate to designate as LGS, but not Sites ii and iii.
- 5.50 In relation to Site iv comprising Land to south of Antye House and east of Orchard Close, this site appears to have a greater affinity with Burgess Hill than Wivelsfield. At the Hearing I was advised that the land has archaeological interest dating back to the iron age. On the basis of the site inspection, I formed the view that there are no qualities of a contemporary nature which would render the proposed designated area particularly special. I am aware that East Sussex County Council submitted a “non-duly made” representation after the closure of the Regulation 16 consultation relating to archaeology and attaching a brief paper entitled “Wivelsfield Neighbourhood Plan - Heritage and Archaeology Summary”, prepared by Casper Johnson MCifA FRSA FSA County Archaeologist (March 2016). Despite being a late submission, I accepted the information regarding the archaeological significance of the wider area. I note that the Heritage and Archaeology Summary does not call for the safeguarding of archaeological sites from development which LGS would provide in the Theobalds Farm area, but that due to the “... *the concentration of work around Theobalds Farm in the west of the parish, for example, and the important discoveries that have been made, there is a need for careful*



*archaeological assessment and evaluation of sites for proposed developments to ensure, in accordance with NPPF policies, that archaeological interest is considered at the earliest opportunity.”* I further note that in the Regulation 16 replies made by ESCC there is no express support for Policy 7 and in particular the inclusion of Site iv as LGS. I therefore conclude from the submission made by ESCC in the form of the Heritage and Archaeology Summary, that there are many potential sites of interest throughout the parish, but that Site iv is not sufficiently or demonstrably special to require enduring protection from future development. Accordingly, I recommend that Site iv be deleted from proposed LGS designation.

- 5.51 I visited proposed LGS Site v, comprising Land on north-west boundary of Parish, prior to the Hearing on 9<sup>th</sup> May, this is close to the southern built up extent of Haywards Heath. There are striking views of the South Downs across this part of the Western Weald gained from the footpath network in this area near to this proposed LGS. Were it to be designated, the community served would be largely Haywards Heath rather than Wivelsfield. At the Hearing there was discussion about future neighbouring development of 175 dwellings and emerging proposals for a country park which might incorporate the proposed LGS. In considering this site, I have had regard to the “Haywards Heath Town Council Neighbourhood Plan: Our Bright Future – Submission Doc”<sup>5</sup> which I understand to be subject to independent examination. At the Wivelsfield NP Hearing, I was advised that Site v is owned by Mid Sussex District Council and that there was considerable co-operation between the various neighbouring parish and district councils about future land use strategy. A common aim as indicated in the Haywards Heath Town Council Neighbourhood Plan is that coalescence of settlements should be avoided. This would be aided in the case of the Haywards Heath NP by Policy 5, which would introduce a (fragmented) but significant Green Corridor as a girdle around the settlement (see figure 4 of the Haywards Heath NP). It would appear that on the southern margin of the town, this would be contiguous with the proposed LGS Site v in the Wivelsfield Neighbourhood Plan. Erroneously, I note that at paragraph 2.23, the Haywards Heath NP refers to Haywards Heath as having, “... a boundary with Wivelsfield Parish which is located in East Sussex and they have recently published their NP, which includes **a Country Park** immediately to the south of Hurstwood Lane.” Haywards Heath Town Council Neighbourhood Plan, Objective 10B, explains the proposal for a modest country park arising from the proposed allocation of land for a new cemetery and allotments contained within a park setting and maintaining an attractive rural setting.
- 5.52 At the Hearing I was advised that Site v was owned by Mid Sussex District Council and that the council would administer the LGS if designated.
- 5.53 Notwithstanding the ambition to create a nearby Country Park, I am not convinced that Site v is demonstrably special and holds a particular local significance sufficient to warrant designation as LGS. As the site is owned by Mid Sussex District Council and is contiguous with other land which the community in Haywards Heath may choose to layout and use as a country park, it occurs to me that due to the size of Site v, taken together with the neighbouring putative country park landholding, it would be preferable for this site to be formally incorporated within the proposed country park, rather

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<sup>5</sup> Haywards Heath Town Council Neighbourhood Plan: Our Bright Future – Submission Doc  
[http://www.midsussex.gov.uk/media/76733/haywards\\_heath\\_neighbourhood\\_plan.pdf](http://www.midsussex.gov.uk/media/76733/haywards_heath_neighbourhood_plan.pdf)

than designated as LGS in terms of land use planning considerations. I am concerned that Site v is already large and taken together with the emerging country park it would be part of and function as an extensive tract of land and thereby fail the test for designation as LGS under NPPF paragraph 77. This decision should not necessarily hinder the joint working between the District Councils and Parishes to create a country park straddling the respective administrative boundaries, but LGS is not an appropriate mechanism in this instance. I therefore recommend that Site v is deleted from Policy 7.

- 5.54 Finally, if these recommendations are accepted, I have reservations about the possible effect of the land use planning control that this policy would impose on Site i, as there may be circumstances in the future where development proposals may be forthcoming that would maintain the openness of the land as LGS, but may not necessarily involve uses that would be, “ancillary to the use of the land for public recreational purposes” or required for statutory utility purposes. The site is not currently in public ownership. If the site is designated as LGS it will probably remain in private ownership and remain controlled by the existing stewardship agreement. I therefore recommend that Policy 7 should be revised as follows:

**Policy 7: Local Green Spaces**

**The Neighbourhood Plan designates land to the south of Green Road and west of Wivelsfield Primary School, as shown on the Policies Map M as Local Green Space.**

- 5.55 I also recommend that Policies Map M will require appropriate revision.

5.56 **Policy 8: Allotments**

**Proposals to establish new allotments will be supported provided they are in a suitable location to serve the local community and can accommodate satisfactory road access and car parking.**

**As a condition of planning the LPA is encouraged to demand the provision of allotments associated with sites that come forward within the Parish.**

- 5.57 The Basic Conditions Statement confirms that Policy 8 supports the provision of allotments at suitable locations accords with Core Policy 8 in preventing the loss of allotment space and adds to the development plan by increasing provision.

- 5.58 The Sustainability Appraisal also demonstrates that the policy scored well against the sustainability framework, in particular against the environmental objectives and that no modifications were made to the policy following the Draft Neighbourhood Plan or SEA consultation. There were no objections raised regarding this policy during the Regulation 16 consultation.

- 5.59 In the light of there being general support, no objection and this policy being demonstrably sustainable, I conclude that this policy is acceptable for development management purposes without amendment.

6.0 **Summary**

- 6.1 In accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10(6), b), I set out the summary of my findings below.
- 6.2 I am satisfied that Wivelsfield Parish Council is the qualifying body and is entitled to submit a Neighbourhood Development Plan for the designated area and that this area is appropriate to be designated as a neighbourhood area. It was formally designated by the Lewes District Council on 17 July 2013.
- 6.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Neighbourhood Area.
- 6.4 The plan period of the Neighbourhood Plan is from 1 April 2015 to 31 March 2030 and it does not contain policies relating to “excluded development” as defined s61K of the Town & Country Planning Act 1990 (as amended).
- 6.5 I am also satisfied that the Wivelsfield Parish Neighbourhood Plan 2015 – 2030 does not relate to more than one neighbourhood area and that there is no other NDP in place within this neighbourhood area.
- 6.6 The Plan has been examined against national, and recently adopted planning policy.
- 6.7 The Plan has also been subject to a Strategic Environmental Assessment, following an update to the earlier screening opinion published by Lewes District Council in July 2015 which concluded that a SEA would be required for the Wivelsfield Neighbourhood Plan. The Plan was suspended to allow the preparation of a Sustainability Assessment (incorporating a Strategic Environmental Assessment) in compliance with EU Directive 2001/42 on Strategic Environmental Assessment to inform the submission version of the plan. The policies within the Submission Version of the Wivelsfield Neighbourhood Plan generally appraised well on a retrospective assessment against the sustainability framework. The SA/SEA appraisals of the policies were supportive of the Plan as a whole and give confidence that the Plan, if made, should make a positive contribution to sustainable development in the Plan area.
- 6.8 **EU OBLIGATIONS**
- 6.9 **Habitat Regulations Assessment**
- 6.10 The Basic Conditions Statement explains that the Wivelsfield Parish Neighbourhood Plan 2015 – 2030 is considered to be compatible with EU Habitats Directive.
- 6.11 A Habitats Regulations Assessment Screening Report was undertaken by Lewes District Council officers to determine whether the Neighbourhood Plan was likely to impact on the integrity of European protected sites within and surrounding the district. The HRA Screening Report concluded that this was unlikely to be the case and so no further assessment was required. I agree that the neighbourhood development plan is unlikely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine

site (as defined in the Offshore Marine Conservation (Natural Habitats, & c.) Regulations 2007, either alone or in combination with other plans or projects.

6.12 As to public consultation, the process and management of the community consultation has been satisfactory and I am confident that the Consultation Statement outlining the terms of reference and actions of the Steering Group, the supporting evidence from the workshops, consultation correspondence and feedback leading to the formulation of draft policies, subsequent pre-submission and submission plan consultation on the Plan policies adequately fulfils Section 15 (2) of Part 5 of the Neighbourhood Planning Regulations 2012.

#### 6.13 **Compatibility with human rights requirements**

6.14 The Basic Conditions Statement confirms that the Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights. It also complies with the Human Rights Act 1998.

6.15 I am satisfied that the Plan is compatible with EU obligations and will contribute to achieving sustainable development within the Wivelsfield Parish Neighbourhood Plan area.

6.16 I am satisfied that subject to the recommended policy revisions being accepted, that the draft Wivelsfield Parish Neighbourhood Plan 2015-2030, has given adequate regard to the policies in the National Planning Policy Framework (NPPF) and other relevant national planning guidance and would be in conformity with the strategic policies of the adopted Lewes District Local Plan Core Strategy adopted on 11 May 2016. If these recommended changes are accepted, I believe that the Wivelsfield Parish Neighbourhood Plan 2015-2030 will make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the designated area.

### 7.0 **Recommendations**

#### 7.1 ***Modifications to meet the basic conditions***

7.2 For the reasons set out above and subject to all of the modifications indicated in the preceding sections of this examination report being accepted, I consider that the Plan would meet the basic conditions in terms of:

- having appropriate regard to national planning policy;
- contributing to the achievement of sustainable development;
- being in general conformity with the strategic policies in the development plans for the local area;
- being compatible with human rights requirements; and
- being compatible with European Union obligations.

7.3 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this report are made to the Wivelsfield

Parish Neighbourhood Plan 2015-2030 and that the draft Plan as modified is submitted to a referendum.

#### **7.4 Referendum Area**

7.5 It is the independent examiner's role to consider the referendum area appropriate in the event that the Parish Council wishes to proceed to the referendum stage.

7.6 In the event that the Parish Council wishes to proceed to the referendum stage with this Plan, I consider that the referendum area should extend to the designated Plan Area, as confirmed on 17 July 2013 and as identified edged red on Plan A on page 5 of the Wivelsfield Parish Neighbourhood Plan 2015 – 2030.

#### **8.0 Conclusions**

8.1 I conclude that, subject to the recommendations in this report being accepted, the Plan would meet the basic conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990.

8.2 In accordance with the Town and Country Planning Act 1990, Schedule 4B 10 (2) (b), I recommend that the modifications specified in this report are made to the draft Neighbourhood Plan and if accepted, the Wivelsfield Parish Neighbourhood Plan 2015 – 2030 is submitted to a referendum.

**Jeremy Edge BSc FRICS MRTPI**  
**23rd August 2016**

## Appendix 1

Lewes District Council and Wivelsfield Parish Council  
Wivelsfield Neighbourhood Plan Examination  
—  
Pre-hearing Statement

6<sup>th</sup> May 2016