

**Ditchling Streat and Westmeston
Neighbourhood Development Plan**

Independent Examiner's Report

January 2018

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Independent Examiner

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Summary

I have been appointed by the South Downs National Park Authority, with the agreement of Lewes District Council, to carry out an independent examination of the Ditchling Streat and Westmeston Neighbourhood Development Plan.

The examination was carried out between October and December 2017 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Plan area on 13 December 2017.

The Plan is based on extensive community engagement and consultation, impressively researched supporting evidence, and provides a clear set of policies, relevant to the needs of the area.

The existing development plan comprises the saved policies of the Lewes District Plan 2003, the Lewes District Local Plan Part I: Joint Core Strategy 2016, and two Waste and Minerals Local Plans which are not relevant to the Neighbourhood Plan. While Spatial Policies 1 and 2 (provision of housing and employment land, distribution of housing) of the JCS have been quashed by the High Court within the area of the National Park, this was owing to technical defects in relation to habitats assessment, which have now been remedied. The underlying strategic housing requirement, which I find most unlikely to change, is for Ditchling to provide for a minimum net addition of 15 dwellings. The Neighbourhood Plan allocates three housing sites, including units with existing planning permission, totalling 19 units. This is a provision which is generally consistent with strategic policies and appropriate in the light of national guidance.

Subject to a number of modifications set out in this report, I conclude that the Ditchling Streat and Westmeston Neighbourhood Development Plan meet the Basic Conditions, and I recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area.

Christopher Lockhart-Mummery QC
Independent Examiner
3 January 2018

Preliminary

The front cover of the submission plan describes it as a “Neighbourhood Development Plan”. This term is frequently used in the text of the Plan. While this is the correct description, it is referred to in this Report as the “Neighbourhood Plan”.

1. Introduction

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enable local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.
2. As stated in the Neighbourhood Plan, Ditchling, Streat and Westmeston are ancient Weald and Downland communities located in one of the most beautiful and unspoilt rural parts of East Sussex, set in the backdrop of the South Downs. The three Parishes have come together to jointly produce a Neighbourhood Plan that will safeguard their heritage, environment and community, and provide the framework for a sustainable vibrant and prosperous future for the parishes.
3. The three parishes are collectively known as the “Beacon Parishes”. By agreement, Ditchling Parish Council was appointed as Qualifying Body (QB). The Plan was prepared by a team of residents appointed by the Parish Councils and advised by the South Downs National Park Authority (SDNPA). All reports are held on the Plan website.
4. The purpose of this report is to assess whether the Ditchling, Streat and Westmeston Neighbourhood Plan complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.
5. The report also makes a recommendation about whether the Neighbourhood Plan should proceed to the referendum stage. If there is a positive recommendation at referendum, the Neighbourhood Plan can be “made” by SDNPA and Lewes District Council (LDC) and so become part of the wider development plan. As such, it will be applied to assist in the determination of planning applications in the Plan area.

2. Designation of neighbourhood area

6. Between 26 February and 9 April 2013, consultation was undertaken on the application to designate the neighbourhood area. The area was designated on 16 January 2014. The area falls partly within the area of SDNPA and partly within the area of LDC.
7. Page 2 of the Neighbourhood Plan (hereafter NP) is a plan which shows the boundaries of the three parishes. It also shows the extent of SDNP (so far as relevant), the residual areas of the parishes to the north falling within LDC.
8. The NP would benefit from a clearer plan showing simply the extent of the designated Neighbourhood Plan area. I therefore recommend that:
 - (1) A plan of the Neighbourhood Plan area form Plan 1.
 - (2) The plan presently on page 2 be shown as Plan 2.

3. Role of the Independent Examiner

9. The SDNPA and LDC have an agreed Protocol for Joint Working on Neighbourhood Planning. In the present case, the lead authority is the SDNPA. It, in agreement with the QB, undertook arrangements to make my appointment. This was made on behalf of the SDNPA and LDC.
10. My appointment was facilitated by NPIERS. I am a planning barrister (QC) with extensive experience of all aspects of planning (plan-making and development management/control) and have appropriate qualifications and experience to carry out the examination. I am independent of the QB, the SDNPA and LDC, and have no land interest in the area that might be affected by the NP.
11. The role of the independent examiner is to ensure that the submitted NP meets the Basic Conditions, together with a number of other legal requirements.
12. In examining the NP I am required, under paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990, to ensure that:

- (1) the policies in the NP relate to the development and use of land for a designated neighbourhood area; and
- (2) the policies in the NP meet the requirements of section 38 of the Planning and Compulsory Purchase Act 2004 (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- (3) the NP has been prepared for an area that has been designated under section 61G of the Town and Country Planning Act and has been developed and submitted by a qualifying body.

13. I must also consider whether the NP meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A Plan meets the Basic Conditions if:

- (1) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan;
- (2) the making of the Plan contributes to the achievement of sustainable development;
- (3) the making of the Neighbourhood Plan is in general conformity with the strategic policies of the development plan for the area, and
- (4) the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, European Union (EU) obligations.

14. Regulation 32 of the Neighbourhood Planning Regulations 2012 (as amended) sets out a further basic condition. This is that the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.

15. As independent examiner, having examined the NP, I am required to make one of the following recommendations:

- (1) that the Plan as submitted can proceed to a referendum; or
- (2) that the Plan with recommended modifications can proceed to referendum, or
- (3) that the Plan does not meet the necessary legal requirements and cannot proceed to referendum.

16. The independent examiner can only recommend modifications to ensure that the NP meets the Basic Conditions and other legislative requirements, or for the purpose of correcting errors.
17. If the Plan can proceed to referendum with or without modifications, the Examiner must also consider whether the referendum area should be extended beyond the Neighbourhood Plan area to which it relates.

4. Compliance with matters other than the Basic Conditions

18. The designation of the neighbourhood area has been described in paragraph 6 above. The area does not cover any other neighbourhood area.
19. I note that the details of the legal designation process for the NP area are not included in the NP. This information should be added to paragraph 1.1 (page 10).
20. I am also satisfied that the NP includes policies that relate to the development and use of land, and does not include provision for any excluded development. The plan period to which it relates is specified as 2017-2032, which should be included on the front cover of the NP. I refer below to “aspirational policies”.
21. With the addition of the matters indicated in paragraphs 19-20, the NP therefore meets the requirements set out in paragraph 12 above.

5. The Examination Process

22. The documents that I have received, and have assisted the Examination, are:
 - (1) The NP, Formal Submission version May 2017.
 - (2) Supporting Documentation Volumes 1 and 2, May 2017.
 - (3) SEA Screening Assessment September 2017.
 - (4) HRA Screening Statement September 2017.
 - (5) Equalities Impact Assessment July 2017.
 - (6) A folder of policy papers and other supporting material.
 - (7) A folder containing Regulation 16 representations, from 20 representors.

- (8) The Joint Response of the SDNPA, LDC and Ditchling Parish Council to my Statement dated October 2017, received on 13 November 2017.
- (9) The Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030.

I also had access to the saved policies of the Lewes District Plan 2003.

23. The general rule is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted NP (the Regulation 16 responses), and the Joint Response referred to above, I was satisfied that the NP could be examined without the need for a public hearing.
24. On 11 October 2017 I issued a Statement, indicating certain procedural aspects, and seeking clarification on a number of matters.
25. On 13 November 2017 I received the extremely helpful Joint Response, referred to above. Both these documents are available on the relevant websites.
26. In order to familiarise myself with the main features of the NP area, and some of the specific topics raised in the NP, I made an unaccompanied site visit to the area on 13 December 2017.

6. Consultation

27. Under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended), the submission of a plan proposal to the local planning authority must include “a consultation statement”. This is defined as a document which:
 - (1) contains details of the persons and bodies who were consulted about the proposed Neighbourhood Development Plan;
 - (2) explains how they were consulted;
 - (3) summarises the main issues and concerns raised by the persons consulted; and
 - (4) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed Neighbourhood Development Plan.

28. Supporting Documentation Volume 1 includes (at pp.11-92) a document called Public and Agency Engagement Programme. The Joint Response confirmed that these pages comprise the Consultation Statement. A summary of Regulation 14 responses was omitted from this document. However, an analysis of the responses received during the Regulation 14 pre-submission consultations and how these were considered was attached to the Joint Response at Appendices 2 and 3.
29. The process of consultation is fully set out in the SDNPA website. In summary, between 26 February and 9 April 2013 consultation was undertaken on the application to designate the neighbourhood area. The neighbourhood area was designated on 16 January 2014. A first round of pre-submission consultation took place between 16 March – 26 April 2014. A second round of pre-submission consultation (on allocation sites and Local Green Spaces) took place between 7 December 2016 and 28 January 2017. Regulation 16 consultation took place between 5 July – 28 August 2017.
30. In the light of all the material supplied, I am fully satisfied that consultation was wide-ranging and comprehensive, amply meeting statutory and policy requirements. The process clearly shows how the NP evolved, in response to that consultation.

7. The Development Plan

31. There are many inaccuracies and inconsistencies in both the NP and the Basic Conditions Statement as to the status of the statutory development plan.
32. The development plan comprises (and comprises only):
- (1) The saved policies of the Lewes District Plan 2003.
 - (2) The Lewes District Local Plan Part 1: Joint Core Strategy 2016.
 - (3) The East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan 2013.
 - (4) The East Sussex, South Downs and Brighton and Hove Waste and Minerals Sites Plan 2017.
33. Spatial Policy 1 of the Joint Core Strategy sets out the proposed provision of housing and employment land. Spatial Policy 2 sets out the proposed distribution of housing. It provides that at Ditchling, a minimum of 15 net additional units will be provided. On 20 March 2017 the High Court quashed those policies, but only insofar as they

relate to the National Park. The quashing related to a highly technical deficiency in the Habitats Regulations Assessment.

34. In response to the High Court ruling the SDNPA and LDC jointly commissioned further HRA work, in support of the emerging pre-submission South Downs Local Plan. Consultation on that emerging Plan took place between 26 September – 21 November 2017. The emerging Local Plan also proposes the same level of housing growth at Ditchling. I find that I have no reason to consider that the intended allocation of dwellings at Ditchling will not form part of the future development plan. The fact that there is not, presently, a statutory development plan provision for 15 net additional dwellings at Ditchling is not a reason to prevent the housing proposals of the NP.
35. I have to consider the Basic Condition of the general conformity of the NP with the strategic policies of the development plan. That raises the question as to which policies of the development plan are strategic. Paragraph 13.1 of the Joint Response states that all policies of the Joint Core Strategy are considered to be strategic. I accept that assessment.
36. Policy CT1 of the Lewes District Plan 2003 was retained on the adoption of the Joint Core Strategy 2016. LDC contend that it is not a strategic policy. The policy requires that development will be contained within the Planning Boundaries as shown on the Proposals Map. Planning permission will not be granted for development outside those Boundaries, subject to specified exceptions. The policy relates to the broad pattern of development across the District, including tight control outside Planning Boundaries.
37. I have considerable doubts that this policy is properly regarded as non-strategic. However, I must consider the specific circumstances of this NP. Policy HSG7A would allocate land at Park Barn Farm for 12 dwellings, involving an extension of the existing planning boundary. However, I do not consider that this single extension of the planning boundary at one specific location causes the NP to fail to meet the Basic Condition of general conformity.

8. Strategic Environmental Assessment

38. The SDNPA made an SEA Screening Assessment dated September 2017. It notes (paragraph 2.4) that the Joint Core Strategy 2016 was subject to SEA and Sustainability Appraisal, as has the emerging SDLP requirement. It was concluded that the NP would have “minimal” environmental effects, and therefore that there was no requirement for SEA. I have no reason to doubt the validity of this conclusion.

9. Habitats Regulations Assessment

39. The SDNPA made a separate Habitats Regulations Assessment Screening Statement dated September 2017. It concluded that there are not likely to be significant effects arising from the NP with regard to the integrity of the Lewes Downs Special Area of Conservation. It was at that stage not possible to screen out likely significant effects on the Ashdown Forest Special Protection Area/Special Area of Conservation with regard to in-combination air quality impacts, and further HRA work was required. This was to be addressed through the emerging Local Plan. The South Downs Local Plan HRA was published in September 2017. It concludes that there are no adverse effects on the integrity of the designations from the South Downs Local Plan (with its allocation for 15 additional dwellings at Ditchling) or in combination with growth arising from surrounding authorities.
40. I therefore conclude that the NP is not likely to have a significant effect on a European site, for the purposes of the relevant Basic Condition.

10. Human Rights

41. I have no reason to doubt the stated assessment that the NP has been prepared with regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.
42. An Equalities Impact Assessment was provided in July 2017. I have no reason to doubt that the duty of care prescribed by the Equalities Act 2010 is met.

11. Assessment of the NP

43. I wish to say at the outset that congratulations are due to all those involved in the preparation of an exceptionally well produced, well researched and balanced NP.
44. This section of the report (the longest) now addresses all aspects of the NP in the light of the statutory and policy requirements. Where no comment is made, this means that no modification or textual change is required. My report includes a series of recommended modifications to ensure that the policies comply with the Basic Conditions, accord with national policy and guidance, and are expressed concisely and precisely. Where I have suggested modifications, these are identified in **bold text**. Minor textual changes are identified in plain text.
45. In agreement with the SDNPA, the final NP should include paragraph numbers, and all policy criteria should be numbered rather than using bullet points. This will make the NP much more effective and usable for development management purposes.
46. In relation to the front cover, the Plan period of 2017-2032 should be added.

Content and policy reference tables (pages 3 and 6)

47. In agreement with the SDNPA and LDC, I find references to “aspirational policies” confusing, and somewhat of a contradiction in terms. It is important to make a clear distinction between the land use policies which will be subject to the referendum, and other aspirations contained within the NP.

I therefore Recommend:

On page 3 replace “aspirational policies” with “community aspirations” (or “community actions”).

On page 6 after “land use” delete “(statutory) topics” and replace with “policies”, and replace “aspirational (non-statutory) topics” by “community aspirations”.

While community aspirations are not within my remit, consequential changes to pages 82, 83 (the heading to Part B) and 84, may be advisable. It should be ensured

that this format is respected throughout the NP (see, by way of example only, pages 26-27).

Section 1.1

48. In line 6 of the second paragraph, “a Planning Inspector” should be deleted and replaced by “an independent examiner”, and in line 7, the word “plan” should be substituted for “framework”.

Sections 2.1-2.2

49. These paragraphs reflect inaccuracies in relation to the status of the statutory development plan. The representations of the SDNPA and LDC have pointed these out, and made helpful suggestions.

I Recommend:

In the first paragraph of paragraph 2.1, last sentence, replace with: “The Lewes District Plan Part 1: Joint Core Strategy (JCS) was adopted by Lewis District Council in May 2016 and the SDNPA in June 2016. This Plan covers the whole of the three parishes. In time, the SDNPA will adopt a Local Plan for the entire National Park, at which point this will supersede the Joint Core Strategy and Lewis District Local Plan 2003 for those parts of the parishes within the National Park”.

In the fourth paragraph of paragraph 2.2, after “conform” insert “generally”.

On page 19, remove “South Downs National Park Local Plan, Preferred Options (September 2015)” from this list (it is not yet a development plan).

In paragraph 5, second sentence, delete and replace by: “The JCS covers the period up to 2030 and replaces the Lewes District Local Plan originally adopted in 2003, although some policies were retained after the adoption of the JCS”. Delete footnote 22 and replace by: “This plan has now been superseded in part”.

Paragraph 6 delete this sentence and replace by: “This Neighbourhood Plan has been drawn up to conform generally to the strategic policies of the JCS”. In the

seventh paragraph, add similar wording regarding the Lewes District Local Plan Part 2.

Section 2.4

50. In order to reflect the statutory requirements as to general conformity:

I Recommend:

Delete the first paragraph and replace by: “The Lewes District Local Plan Part 1: Joint Core Strategy establishes a vision for the district by 2030, including the rural elements of the Low Weald and the rural areas of the South Downs National Park. This vision is translated into a series of strategic objectives, a Spatial Strategy and Core delivery policies, adopted by LDC on 11 May 2016 and by the SDNPA on 23 June 2016”.

In the heading to Table 2.4 delete “key delivery” and replace by “strategic”. Delete the Note (it is out of date).

In paragraph 6, after “2013” add “while not a development plan,”.

In the seventh to ninth paragraphs (pages 23-24) amend to reflect the comments of the SDNPA as follows: “The final paragraph of page 23 and the following two paragraphs on page 24 refer to the contents of the emerging South Downs Local Plan but do not make this clear as the preceding paragraph refers to the SDNP Partnership Management Plan. As the emerging South Downs Local Plan has yet to be adopted the policy numbering has changed, and may again change. We would recommend removing reference to specific policy numbers as these may well change ahead of adoption”.

In the ninth paragraph, delete the last two sentences and replace by: “Development will only be permitted where it conforms to the countryside policies contained in the development plan for the area. In the Plan, Ditchling has again been allocated a net addition of 15 homes which confirms the allocation in the Lewes District JCS”.

Section 3.1

51. In the first paragraph, the last word of the first sentence should be “thereafter” not “therein”.

Before section 3.3

52. In my October 2017 Statement I pointed out a confusion within Policy HSG3, and overlap with Policy CONS 1. Along with the SDNPA, I suggested that it might be better for there to be, as the first policy in the NP, a general policy providing for what will be permitted/restrained within and outside the settlement boundary of Ditchling. The Joint Response agreed, and put forward a suggested policy wording.

I Recommend:

That Policy HSG3 be deleted, and that a new policy (perhaps numbered DS1) be inserted:

Development Strategy

The principle of development is supported within the settlement boundary, particularly where this:

- (i) meets identified housing requirements;**
- (ii) supports its role as a service centre for the Plan area; and**
- (iii) provides facilities supporting its role as a gateway to the National Park.**

Exceptionally, development will be permitted outside of the settlement boundary where it complies with relevant policies in the development plan, and:

- (a) it is allocated for development or safeguard if the use proposed as part of the development plan; or**
- (b) it is for the provision of affordable housing meeting local needs on rural exception sites; or**
- (c) it is for the replacement or extension of existing dwellings providing the resulting floorspace is not increased by more than 30% of the existing dwellings; or**
- (d) it is small-scale development which supports an existing rural business; or**
- (e) it is for facilities for low-key countryside recreation and tourism, particularly those promoting use of the National Park; or**

- (f) in the case of community infrastructure, there is a proven need for the development that demonstrably cannot be met elsewhere;**
- or**
- (g) it is an appropriate re-use of a previously developed site, excepting residential gardens”.**

The supporting text (which could be brief) should be drafted accordingly. The text of former paragraph 3.3 – which will now be 3.4 – should cross-refer to Policy DS1. Consideration should be given as to whether Policy DS1 should include the last two paragraphs of (former) Policy HSG3 – or whether there should be a separate policy for St. George’s Park.

Section 3.3 Housing (now section 3.4)

- 53. In the third paragraph, the second sentence should be deleted and replaced by: “The area covered by the NP that is not in the National Park is covered by LDC which has made similar allocations for each settlement”. The third sentence should be deleted and replaced by: “In the Joint Core Strategy 2016, Ditchling was given a target of a minimum of 15 new dwellings (net)”.
- 54. In the fifth paragraph, the first sentence should be deleted and replaced by: “Ditchling’s settlement boundary is very tightly drawn around the developed core, leaving little or no room for further development within the planning boundary”.
- 55. On Figure 3.3/1, the proposed extension to the settlement boundary should be shown.

Policy HSG1

- 56. This policy seeks to restrict new housing to either 1 or 2 bedroom houses or flats, 2/3 bedroom affordable homes or homes suitable for the ageing population. As stated in the SDNPA representation, there is clearly community support for the provision of smaller units (1 and 2 bedroom homes). There is also evidence of need for smaller units both affordable and market homes in the Strategic housing Market Assessment 2015. Affordable housing requirements are currently set by strategic policy. Core Policy 1 of the Joint Core Strategy (Affordable Housing) indicates (paragraphs 7.10-7.11) a district-wide target of 40% at a threshold of 10 or more units, reflecting viability evidence. There is a graduated scale for schemes below this level (e.g. a

scheme of 4 units has a target of 1 affordable housing unit). The NP does not present any viability evidence that higher levels of affordable housing can be achieved. It contains inadequate justification for diverging from the development plan. Whilst I fully recognise the wishes of the local community on the topic of affordable housing, I do not consider that this policy conforms adequately with the development plan or national policy/guidance.

I Recommend:

That Policy HSG1 be deleted, and replaced by:

“Housing proposals will be supported that provide:

- (1) 1, 2 or 3 bedroom houses or flats;**
- (2) housing units for an ageing population in close proximity to village services and suitable for adapted living.**

Affordable housing will be delivered in accordance with the development plan”.

Policy HSG2

57. This policy lacks consistency and clarity, contrary to national policy and guidance.

I Recommend: that the policy be deleted and replaced by:

“Housing proposals should be developed at the maximum density appropriate to the location, while retaining the character of the Beacon villages. The sub-division of existing buildings and plots, and the conversion of agricultural units, will also take into account this objective. Where appropriate, gardens should be provided for every unit. Car parking should be provided in accordance with highway authority standards”.

Policy HSG4

58. In the last bullet point, the gap between “of” and “local” is missing, and the last phrase should read “...amenity of the local road network”.

Policy HSG5

59. As a consequence of the earlier recommendation in relation to Policy HSG3, reference to this policy should be deleted from Policy HSG5.

Policy HSG6

60. As pointed out by LDC, there is some duplication here with Policy CP7 of the Joint Core Strategy. However, the specific circumstances – the communities’ priorities for infrastructure, and protection of amenity – make a further policy in the NP desirable. The change to the second sentence recommended by the SDNPA would bring the policy more into line with national guidance, especially in relation to the protection of the National Park.

I Recommend: that the second sentence of the policy be deleted and replaced by: “New and improved utility infrastructure will be supported where the design minimises the impact on the natural beauty, wildlife and cultural heritage of the National Park and the amenity of local communities”.

In the third sentence, the word following “commercial” should be “development” not “infrastructure”.

Development sites

61. The context for housing provision in the NP was referred to in paragraph 34 above. While Spatial Policies 1 and 2 have been quashed on technical HRA issues, it seems common ground that the relevant strategic housing context for the NP is provision of 15 net additional dwellings through allocations at Ditchling. The NP proposes (Table 3.3/2) sites for 19 dwellings. Some of the units already have planning permission, and there are potential constraints, for example in relation to Policy HSG7B. That being so, I find that the proposed housing provision is well aligned with the strategic requirement.
62. In response to the representation of the SDNPA, and as I understand the position, 3 units at Lewes Road/Nye Lane, have planning permission. If so, that should be specified in Table 3.3/2. If it is the intention (see the Park Barn Farm Development Framework) that the 9 “community housing units” proposed for this site through the medium of a Community Land Trust, will be affordable, this should be indicated both in Table 3.3/2 and in the Development Framework.

Policy HSG7A and its related Development Framework

63. The representations of Gladman make the valid point in relation to this and other housing policies that it is not the role of the NP to seem to “grant” planning permission. The representations of the SDNPA seek further protection for the National Park environment. The following recommendation is made for those reasons.

I Recommend: that Policy HSG7A be deleted and replaced by:

“Applications for residential development on the land identified in Figure 3.3/4 for 12 residential units will be supported where it is demonstrated that proposals:

- (1) conform to the Park Barn Farm Development Framework (below); and**
- (2) meet the requirements set out in other appropriate policies of the development plan”.**

64. This is a sensitive site. In response to the representations of the SDNPA, and to secure proper protection for the National Park in accordance with national guidance and the development plan, the Development Framework should be amended to ensure the following:

- (1) that access is taken solely through Long Park Corner;
- (2) that surface treatment works on Beacon Road are related solely to the needs of the development;
- (3) that a full site survey is undertaken, and that development be required to take place in line with BS5837;
- (4) under the heading “Conservation”, delete “...under the segregation rule imposed by the planning authority”;
- (5) that views from the Sussex Border Path are protected by appropriate measures; and
- (6) delete the reference to Appendix A, and amend the adjoining text accordingly.

Policy HSG7B and its related Development Framework

65. The same Gladman point referred to in paragraph 63 applies here. Further, there is a number of constraints affecting the development of this site, apparently including the presence of common land, highway land, drainage etc. It would be advisable if the policy specified “up to 4 additional residential units”.

I Recommend: that Policy HSG7B be deleted and replaced by:

“Applications for residential development for up to an additional 4 residential units (in addition to the 3 already permitted), on the land identified in Figure 3.3/5 will be supported where it can be demonstrated

- (1) that the proposals conform to the Development Framework given below, and**
- (2) meet the requirements set out in other appropriate policies of the development plan”.**

The text should be clarified to show (if this be the case) that planning permission exists for 3 units. The reference to an increase of 2 is presumably part of the additional 4, and it may be better to omit this in the interests of clarity. The reference to the site block plan should be deleted (it is not included in the NP) and in any event it is likely to be too prescriptive for present purposes.

66. I recommend the following amendments to the Development Framework:

- (1) delete the reference to Appendix A and adjust the text accordingly;
- (2) under the heading of Traffic Access and Parking –

Delete the second sentence and replace by: “The existing road access junction will need to be improved. The nature of these improvements should take into account the effect on the local environment”.

Delete the third and fourth sentences and replace with: “Alterations to the surface treatment of Lewes Road may be required, so far as related to the development”.

Policy HSG7C

67. In response to the representations of the SDNPA, the site boundary in Figure 3.3/6 should be amended to reflect the existing planning permission. The wording of the policy needs amendment for the purposes of clarity.

I Recommend: that Policy HSG7C be deleted and replaced by:

“Applications for residential development on the land identified in Figure 3.3/6 for 3 residential units will be supported provided that the proposals meet the requirements set out in appropriate policies of the development plan”.

Transport

68. Paragraphs 6 and 7 of the text on page 41 support TRANS 3, 5, 6 and 7. These are not policies, but community aspirations. Their supporting text should therefore be transferred to Part B. In the eighth paragraph, the first sentence should read: “A number of policies in this Plan are also concerned with traffic”. In line 2 the reference to four approaches should be to three approaches (SDNPA). In the ninth paragraph, replace “policies” with “aspirations”.

TRANS 1

69. If planning permission has now been granted for this proposal (see SDNPA) it seems doubtful that this policy is still necessary. If it is not necessary, there will only be one TRANS policy, calling for further amendment to the eighth and ninth paragraphs of the text.

TRANS 2

70. East Sussex County Council has made representations (paragraphs 3.1-3.3) in relation to this policy. These are soundly based in national policy and guidance.

I Recommend: that Policy TRANS 2 be deleted and replaced by:

“Transport Infrastructure Improvements Associated with New Housing Developments

Applications for housing development may need to be accompanied by appropriate transport infrastructure improvements (e.g. footways and pedestrian crossings, cycle routes, bus stop improvements) required for and related to the development”.

Business and Tourism

71. Core Policy 6 of the Joint Core Strategy covers retail and related matters, including local centres, which is the classification for Ditchling. The second sentence of paragraph 3.5 of the NP is not accurate, and should be replaced by: “LDC and the SDNPA classify Ditchling Village as a Local Centre where existing retail units will be safeguarded for retail use”.
72. Policy BIZ1 has several defects. “Must” is too draconian and may not reflect market forces. The second sentence is aspirational. The whole policy overlaps with, and is partially inconsistent with, Policy COM1B (page 71). The policy is headed Retention of local shops, but the text of the policy refers to “local services and businesses”. It would be preferable for Policy BIZ1 to deal with local shops and businesses, and for Policy COM1B to deal with public services and community facilities. The following recommendations will secure compliance with national policy and guidance.

I Recommend: that “existing shopping” be deleted from Policy COM1B. That Policy BIZ1 be deleted and replaced by:

“Retention of Local Shops and Businesses

Local shops and businesses are vital to the economic and social life of the Beacon villages. Proposals for change of use of such shops and businesses to other uses will be resisted, unless it can be demonstrated that the use is no longer viable. This will normally require at least a 12-month genuine and robust marketing campaign, which demonstrates lack of effective market demand.”

Policy BIZ2

73. The opening four lines of this policy are aspirational, and would sit better in the supporting text. The SDNPA advise that the policy reference to the emerging South Downs Local Plan has changed. The second paragraph of the policy is no longer necessary in the light of Policy SD1. Modifications are necessary to ensure compliance with national policy and guidance.

I Recommend: that Policy BIZ2 be deleted and replaced by:

“Development proposals for farm diversification which are in line with national sustainability policies for rural development, and are of an appropriate scale and in an appropriate location, will be supported. Existing farm buildings should be re-used wherever possible and diversification proposals supported where they are ancillary to farming operations”.

Conservation Land Use Policies

74. The phrase in paragraph 3.6.1 “as endorsed by SDNPA officers” is superfluous, and should be deleted. In the second paragraph the reference to NPPG should be to NPPF. In the third paragraph the reference to HSG3 should be replaced by DS1.

Policy CONS 1

75. The first paragraph of the policy is redundant in the light of Policy DS1.

I Recommend: that the first paragraph of the policy is deleted and replaced by: “The overall development strategy of the Plan is set out in Policy DS1”. The second and third paragraphs should be retained.

76. The boundaries of the two industrial estates, and the “established developed areas” at St. George’s Park should be identified on maps within the supporting text.

Policy CONS 2

77. Consideration should be given to the following. In the fifth bullet point, adding “where practicable” after “rights of way”. In the seventh bullet point, adding “where possible” after “drainage principles”.

Policy CONS 3 and 4

78. Policies CONS 3-5 cover different aspects of the heritage interest of the NP area. The heritage assets, designated and non-designated, are crucial aspects of the character of the area. Their protection and enhancement are matters of great importance.
79. However, these policies do not conform to national guidance in Chapter 12 of the NPPF. Paragraphs 126-141 of the NPPF contain a very detailed and careful framework for the protection of heritage assets. Policies CONS 3 and 4 do not conform, and if anything provide a lower degree of protection. There is clear conflict with national policy. There is no point in trying to reproduce or summarise national policy in this NP. The following recommendations will secure stronger protection for the relevant heritage assets.

I Recommend: delete Policies CONS 3 and 4, and replace by:

“CONS 3

Proposals for development which affect heritage assets, whether designated or non-designated, will be considered under the provisions of paragraphs 126-141 of the NPPF”.

The last sentence of the preceding text should be deleted and replaced by: “The household survey recorded a strong desire for the historic environment and character of the parishes to be conserved. National policy in paragraphs 126-141 of the NPPF provides a detailed and firm foundation for the conservation and enhancement of the historic environment. Policy CONS 4 provides further guidance of local application in relation to conservation areas”.

Re-number CONS 5 to CONS 4 and retain as drafted. It provides appropriate protection specific to the locality.

Policy CONS 6

80. This is a community aspiration, and should be removed to Part B.

Landscape

Policy CONS 7

81. On page 50, footnote 68 is missing.
82. In agreement with the SDNPA, I would like to “commend the group on the considerable work undertaken to understand the local landscape qualities and sensitivities which has led to the identification of key views and local landscape character areas included for conservation in the Neighbourhood Plan”. I share the view that the first sentence of the policy may not adequately reflect national guidance.

I Recommend: that the first sentence of Policy CONS 7 be deleted and replaced with: “The distinctive landscape, views and scenic beauty of the Neighbourhood Plan area should be conserved and enhanced. The landscape of the South Downs National Park and its setting shall be protected in accordance with legislation, national planning policy, and planning policy guidance”.

In the second bullet point “accompanying map” should be replaced with “Figure 3.6/1”.

I agree that it would be helpful to name and list the key views (in the text or on the plan).

On Figure 3.6/2 item H is missing from the legend, and it would be helpful to clarify the concept of “rural setting”.

Policy CONS 8

83. The policy and its supporting text are appropriate. An amendment to the last sentence of the policy is desirable in the interests of clarity.

I Recommend: amend the final sentence of the policy to refer to the “South Downs Integrated Landscape Character Assessment and relevant local landscape character assessments”.

Policy CONS 9

84. As pointed out by LDC, there is no JCS policy on dark night skies. As pointed out by the SDNPA, it is the quality of dark night skies that the policy is seeking to preserve rather than the “night time environment”.

I Recommend: that the third line of the first sentence of CONS 9 be replaced by “on the quality of dark night skies”.

Policy CONS 10

85. I commend the evidence base that underpins this policy. I have no comment on either the policy or its supporting text.

Green spaces and green infrastructure

86. The text clearly explains the 3-tiered approach to the protection of green spaces and green infrastructure within the plan area, in a convincing manner.
87. Local Green Spaces were reduced from a list of over 20 sites, to a final list of 9 proposed LGS. These were assessed against the criteria in paragraph 77 of the NPPF, with the results of the assessment reported in detail at pages 96-106 of the Supporting Documentation. I have carefully considered these assessments. In my judgment, each site meets the relevant criteria. I therefore endorse Policy CONS 11. In common with the SDNPA, I consider the supporting evidence to be an example of best practice and a model for other neighbourhood planning groups.

Community open spaces – CONS 12

88. Again, I find the approach to this document to be well justified, and endorse this policy.

Policy CONS 13 – green infrastructure

89. Again, I endorse the analysis and the policy. On Figure 3.6/8, there appears to be an error in the legend, which refers to grey areas of “local green spaces”, which is an inaccurate description.

Policy CONS 14 – links to the countryside

90. Again, I endorse the policy and its supporting text.

Community infrastructure – Policy COM1

91. The community assets the subject of these policies are of great importance to the community, and the policies properly reflect this. I have no comment on Policy COM1A. In relation to Policy COM1B, to reflect the recommended modification made above, and to bring the terms of the policy into compliance with national guidance I make the following recommendation.

I Recommend: that Policy COM1B be deleted and replaced by:

“Development proposals that lead to the loss of public services or community facilities should be resisted unless it can be reasonably shown that such uses are no longer viable. Evidence of a 12-month minimum robust marketing or similar campaign will be required in clear demonstration that there is no demand for public services or community uses in those buildings”.

I have no comment on Policy COM1C.

Policy COM2

92. I have no comment on the policy or its supporting text.

Cumulative effect of the Neighbourhood Plan’s policies

93. I have already recommended the deletion of the concept of “aspirational policies”, and its replacement by “community aspirations”. The drafting of page 73 (especially the first paragraph) will need to be amended accordingly.

Section 4 – Achieving sustainable development

94. To reflect earlier recommendations, the text on page 77 should be amended in these respects:

Under Housing, delete “small affordable housing” and replace by “smaller housing units”.

Under Traffic and Transport, after “transport policies” insert “and aspirations”.

Under Business and employment, after “business policies” insert “and aspirations”.

Section 5 – Implementation

95. In the last paragraph on page 80, the reference to “TRANS 2” is incorrect.
96. In the second paragraph on page 81, the word “adopted” in line 2 should be “made”.
97. The content of page 82 would presumably be better placed in Part B.

12. Conclusions and Recommendations

98. I have examined the Ditchling Streat and Westmeston Neighbourhood Plan and I have concluded that, subject to the modifications set out in this report, it meets the Basic Conditions and other statutory requirements.
99. I am therefore pleased to recommend to the SDNPA and LDC that, subject to the modifications set out in this report, the NP should proceed to referendum.
100. I am also required to consider whether the referendum area should be extended beyond the NP area. I can see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved on 16 January 2014.

Christopher Lockhart-Mummery QC

Independent Examiner

3 January 2018