

# Hellingly Neighbourhood Development Plan 2018- 2028

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## **Submission Version**

A Report to Wealden District Council on the Examination of the Hellingly Neighbourhood Development Plan

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

[johnslaterplanning@gmail.com](mailto:johnslaterplanning@gmail.com)

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## Executive Summary

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

- Removing reference through the plan document to the now withdrawn Wealden Local Plan.
- The deletion of the plan's "Recommendations" where they relate to matters covering the development and use of land or where they refer to topics or issues contained within or stemming from the draft Local Plan.
- Replacing the HRA policy to the one being promoted by the District Council in its revised Appropriate Assessment.
- Including the description of the character of the Area of Locally Valued Landscape.
- Showing viewpoints and vistas on all relevant maps, where policies seek to protect such views.
- Removing Park Wood from the list of Local Green Space and strengthening the policy criteria to bring it into line with national policy.
- Deleting the policy for Areas of Critical Flood and Drainage Concern.
- Restricting the presumption against land raising to areas that are at risk of flooding.
- Removing the requirements that rural development has to demonstrate environmental, social or economic benefits.
- Deleting the isolated new dwellings policy.
- Focus the design requirements in Hellingly Village to matters to be contained in the Design and Access Statement.
- Bringing policies related to non-designated heritage assets into line with the thresholds set in the NPPF.
- Including into the policy the buildings to be designated by the neighbourhood plan as non-designated heritage assets.
- Removing the policy related to listed buildings, as it duplicates legislative protection as well as national and local policy.

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

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Wealden Core Strategy Local Plan, the saved policies of the 1998 Wealden Local Plan and the Affordable Housing Delivery Local Plan 2016 and the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2017. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Hellingly Parish Council. A Steering Group was appointed to undertake the plan preparation made up of local volunteers, along with representatives of the Parish Council. Hellingly Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.
3. This report is the outcome of my examination of the Submission Version of the Hellingly Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Wealden District Council, the Local Planning Authority for the neighbourhood plan area.

## The Examiner’s Role

4. I was formally appointed by Wealden District Council in May 2019, with the agreement of Hellingly Parish Council, to conduct this examination. My role is known as an Independent Examiner.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 41 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Wealden District Council and Hellingly Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:
  - That the plan should proceed to referendum on the basis that it meets all the legal requirements.

- That the plan should proceed to referendum if modified.
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Hellingly Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions
    - a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Town and Country Planning Act 1990 (as amended) and has been developed and submitted by a qualifying body.
  9. I am able to confirm that the Plan does relate only to the development and use of land covering the area designated by Wealden District Council, for the Hellingly Neighbourhood Plan, on 5<sup>th</sup> November 2015.
  10. I can also confirm that the Basic Conditions Statement does specify the period over which the plan has effect, namely the period from 2018 up to 2028. The actual submission version of the plan refers to it covering the period “up to 2028” but does not refer to a start date. I will recommend that the period “2018 -2028” be added to the title of the plan on the cover page.
  11. I can confirm that the plan does not cover any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the Plan designation.
  13. Hellingly Parish Council, as a parish council, is a qualifying body under the terms of the legislation.

## **The Examination Process**

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

16. I carried out an unaccompanied visit to Hellingly, on Tuesday 2<sup>nd</sup> July 2019. I was able to drive around the Parish, visiting each of the character areas as well as exploring the rural lanes to the north of the plan area. I saw for myself the extent of new residential development already taking place in the parish.
17. Following my site visit, I sent out a document entitled "*Initial Comments of the Independent Examiner*" dated 18<sup>th</sup> July 2019, which asked a series of questions or sought clarification on a number of matters. I received a response from the Parish Council on 18<sup>th</sup> September 2019 and from the District Council dated 19<sup>th</sup> September 2019. One of the questions related to the status of the emerging Local Plan and the timing of the Inspector's conclusions on Stage 1 of the Local Plan examination. At that time, the Inspector's letter was still awaited but had not been received and on 24<sup>th</sup> October 2019, I issued a document entitled "*Further Comments of the Independent Examiner*", which explained that I was holding the examination in abeyance until the Inspector's letter was received.
18. On 19<sup>th</sup> December 2019, I held an exploratory meeting with representatives of Hailsham Town Council, which was convened to explore the procedural aspects of proceeding with the examination of the neighbouring Hailsham Neighbourhood Plan, which I also was examining, in the absence of any clarity regarding the status of the emerging Local Plan and in particular the policies which related to the impact that development in Hailsham would have on the protected European sites. Whilst in the town I again toured Hellingly parish to re-familiarise myself with the parish and put into context some of the information that had been sent to me after my initial site visit.
19. I offered an invitation to attend the Hailsham exploratory meeting to representatives, on behalf of the Hellingly Parish Council, primarily as observers, as that examination was facing similar issues regarding uncertainty as to the weight to be given to the emerging Wealden Local Plan.
20. The meeting concentrated on possible amendments to the Hailsham NDP HRA policy wording of what was the equivalent policy to Policy HNDPE in the Hellingly NDP and it was agreed that a revised form of wording would be drafted by the District Council and shared with the 2 Steering groups and it would similarly be forwarded to me to consider. I will return to this matter in subsequent sections of this report.
21. I was advised on 6<sup>th</sup> January 2020, that the Local Plan Inspector's letter had been received on 20<sup>th</sup> December 2019, the day after Hailsham's exploratory meeting and the Inspector had concluded that the local plan had not met the statutory requirements, particularly on the duty to co-operate and had recommended that the plan examination should not continue to Stage 2 of the examination and that the plan should be withdrawn.
22. In the light of that letter, the District Council agreed to still circulate the revised wording of the Policy HNDPE, but also importantly stated that it would prepare a new draft Habitats Regulation Assessment for consultation with Natural England, to consider the Hellingly Neighbourhood Plan in the context of the position without an emerging Local Plan and taking into account the advice of Natural England and the Planning Inspector of the Submission Wealden Local Plan.

23. The receipt of the Inspector's report meant that the Hellingly examination could now continue and, on 15<sup>th</sup> January 2020, I issued a further document, *Additional Comments of the Independent Examiner* which advised parties that I had decided to call a public hearing and I set out the reasons and the matters upon which I would be inviting verbal submissions and also those matters that required a written response.
24. That was followed up by the publication of Guidance Notes and Agenda for the Public Hearing dated 28<sup>th</sup> January 2020 which confirmed the date of the hearing as 18<sup>th</sup> February 2020 and set out the parties to be invited, namely the Parish Council, the District Council and Catesby Estates, who had submitted comments at the Regulation 16 stage. I had also extended an invitation to Gladman Developments, but I was informed that they did not wish to attend and would merely rely upon their existing contributions.
25. The hearing opened at 10am and was attended by 7 members of the public. It concluded at 4.15 pm. I am very grateful for the co-operation and good humour of all parties, who took part in the hearing's proceedings, which has helped me considerably with this examination.

### **The Consultation Process**

26. Once the Parish Council decided to proceed with preparing a neighbourhood plan, a Steering Group, who would oversee the plan making and a Project Team, responsible for producing the plan, were appointed and initial meetings were held in January 2016.
27. The initial phase of public consultation included holding 8 discussion group meetings, 4 focused on the settlements, Hellingly, Lower Dicker, Lower Horsebridge and Roebuck Park and 4 groups covering special interest groups. Invitations to attend these discussion groups were sent to every household in the parish. These discussion groups were held over the period March - May 2016 and were attended in total by 103 residents.
28. The results from these initial consultations were reported to the Annual Parish Meeting, held on 12<sup>th</sup> May 2016, which was attended by about 60 residents.
29. The second phase of the plan's consultation involved the circulation of a leaflet to every household in the parish and this achieved a response rate of 18.2%.
30. All this activity culminated in the preparation of the Pre-Submission Version of the plan, which was the subject of an eight - week consultation, known as the Regulation 14 consultation, which ran from 1<sup>st</sup> December 2017 until 26<sup>th</sup> January 2018. This involved public exhibitions and a public meeting which was attended by about 60 people. Leaflets were distributed at these events and 26 completed responses were handed in. The responses to the Reg 14 consultation are set out in Appendix D to the Report on Phase 3 of the Public Consultation which also sets out how the plan was to be amended in the light of comments made.

31. I am satisfied that the plan making process has been both open and transparent and that the views of the community have been positively sought and have been able to influence the final content of the neighbourhood plan.

## **Regulation 16 Consultation**

32. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 7<sup>th</sup> May 2019 and 18<sup>th</sup> June 2019. This consultation was organised by Wealden District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 consultation.
33. In total, 9 responses were received, from Natural England, National Grid, Highways England, Southern Water, East Sussex County Council, Friends of Park Wood, Gladman Developments Ltd, Batchellor Monkhouse on behalf of Catesby Estates PLC and one from a local resident.
34. I have carefully read all the correspondence and had regard to them, where they have been relevant to my considerations and conclusions either in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

35. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions, which are set down in legislation. It will be against these criteria that my examination must focus.
36. The five questions which constitute the basic conditions test, seek to establish: -
- Has the plan had regard to the national policies and advice contained in the guidance issued by the Secretary of State and is it appropriate to make the Plan?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
  - Whether the making of the Plan breaches-or is otherwise incompatible with EU obligations or human rights legislation?
  - Whether the making of the Plan would breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## Compliance with the Development Plan

37. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Wealden Core Strategy Local Plan which was adopted in February 2013. Also of relevance are the saved policies in the Wealden Local Plan which was adopted in 1998 and the Affordable Housing Delivery Local Plan.
38. In the Core Strategy, Hellingly and Lower Horsebridge sit as neighbourhood centres in the settlement hierarchy, which are described as “a settlement with limited, basic or no facilities but with access to another centre or a settlement with facilities but poor accessibility or access only to a service or local centre”.
39. The plan period is the period up to 2027 and Policy WCS 1 explicitly recognises the infrastructure limits imposed by the ability of Hailsham Waste Water Treatment Works to discharge treated water into the Pevensey Levels.
40. Policy WCS2 proposes the allocation of 1300 new homes in the Hailsham and Hellingly area. There is an equivalent requirement to allocate 8, 650 sq. m of employment space and 6,230 sq. m of retail, as set out in Policy WCS3. There is a strategic development area identified in Policy WC4, North Hailsham (SD3) which falls primarily in Hellingly parish. This is expected to deliver at least 700 new dwellings.
41. Other relevant policies include Policy WCS 12 dealing with biodiversity which originally included a requirement to include Suitable Alternative Natural Green Spaces (SANG) for development within 7 km of Ashdown Forest and a 400m exclusion zone, but this part of the policy was subsequently removed, following a legal challenge. The other strategic policy of relevance is Policy WCS 13 dealing with Green Infrastructure.
42. The District Council had been preparing a new Local Plan that would have extended the plan period up to 2028. The Submission Version of the plan had been submitted to the Secretary of State and the first stage of the examination held. The new plan had influenced, to some extent, the Hellingly Neighbourhood Plan and in particular the District Council had identified air quality, and the impact of development on Special Areas of Conservation, in Policies AF1 and AF2 which had driven, to a large extent, the need for the Hellingly Neighbourhood Plan to include Policy HNDPE based on the findings of the Local Plan’s Habitat Regulations Assessment.
43. However, the Inspector’s letter dated 20<sup>th</sup> December 2019, concluded that the emerging local plan had failed in its “duty to cooperate” requirements on strategic cross boundary issues. She also concluded that the District Council’s approach to the impact of vehicle emissions was not supported by adequate evidence. She recommended that the plan should be withdrawn and the examination would not pass beyond Stage 1.
44. At the meeting of the Full Council held on 19<sup>th</sup> February 2020, the District Council formally confirmed its decision to withdraw the submitted Draft Wealden Local Plan 2019.
45. I am required to assess the Hellingly Neighbourhood Plan, solely against strategic policies which are set down in the adopted Core Strategy Local Plan and the saved

policies in the 1998 Wealden Local Plan and my overarching conclusion is that the plan taken as a whole is in general conformity with the strategic policies in the development plan.

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

47. Wealden District Council issued a Screening Report, on 9th October 2018 which concluded, having consulted with the three statutory consultees, that a full SEA should be undertaken as part of a Sustainability Appraisal, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, as its view was that the scale of development supported by the draft plan may result in a likely significant effect upon European protected sites.
48. Wealden District Council, as competent authority, also issued, in the same report its screening under the Habitat Regulations. The screening assessed the submitted plan and concluded that its provisions may also result in a “likely significant effect” on European protected sites or their qualifying features, in particular through increased atmospheric pollution at Ashdown Forest SAC, Lewes Downs SAC, Pevensey Levels SAC/ Ramsar site, and an altered hydrological regime due to an increase in impermeable surfaces from new development as well as from an increase in surface runoff and treated wastewater discharge at Pevensey Levels SAC and Ramsar site. It therefore concluded that an Appropriate Assessment would be required.
49. A Scoping Study report was issued by consultants for the Parish Council in November 2018 and this was the subject of consultation with the 3 statutory consultees. Natural England and Historic England did not have any specific comments and comments were made by the Environment Agency.
50. A Sustainability Appraisal Report (incorporating a Strategic Environmental Assessment Report) was published by the neighbourhood plan’s project team in March 2019 which set out the assessment methodology, the context of the plan, considered suitable alternatives and then came to conclusions against the individual plan policies. It concluded that the plan is likely to have generally positive effects with regard to sustainability and the health and well-being of local people. The NDP is expected to avoid or mitigate all potentially significant negative effects and no negative residual effects were identified.
51. The District Council published its Habitats Regulations Assessment in May 2019. Some of its findings drew upon the evidence base and work that had already been published as the Wealden Local Plan HRA, which had drawn criticism by Natural England in its Regulation 16 comments. The document followed the recognised route by considering the issues and the pathways to impact on the protected sites and concluded that the Hellingly Neighbourhood Plan would not adversely affect the integrity of any European or international sites so long as Policy HNDPE is included in the Neighbourhood Plan. It did include the statement “This conclusion has been

reached without relying on the emerging Wealden Local Plan policies as relevant to Ashdown Forest and Pevensey Levels.”

52. These issues were explored at the Hailsham Exploratory Meeting, which examined whether the wording of the equivalent policy, Policy HAIL HRA1, which was imposing requirements on **all** development, without necessarily considering whether the development would, even in combination with other plans and projects, have a significant adverse impact on a SAC. That discussion led to the suggestion by the Wealden planners to prepare a revision to the wording of the policy, so that the level of mitigation required by the policy was more directly related to the scale and type of scheme proposed.
53. Irrespective of the Local Plan Inspector's conclusions on the local plan, the rewording of the policy which the Assessment stated was required to mitigate the harm arising from the Plan, would have required a revised Appropriate Assessment and the case for that is strengthened by the Inspector's conclusion on the overall approach to the air quality question, which in part was fundamental to the imposition of requirements on development, due to a possible impact on Ashdown Forest.
54. Following the receipt of the Local Plan Inspector's conclusions on the local plan and the subsequent withdrawal of the Local Plan, Wealden District Council has now prepared a revised Habitats Regulations Assessment Report upon which it has consulted Natural England, the Environment Agency and Historic England. That has concluded that it is not possible to conclude that the proposals in the Hellingly Neighbourhood Plan will or will not result in an adverse effect on protected sites as a result of traffic movements. Quoting legal precedents, it “accepted that adverse effects must be assessed at every relevant stage of the procedure *to the extent possible on the basis of the precision of the plan*” (my emphasis). This therefore allows the assessment of potential adverse effects at the planning application stage when more detailed information is available.
55. A similar conclusion was reached in terms of the impact of development on the Pevensey Levels but through the inclusion of a policy requiring SUDS in any new development within the hydrological catchment area of the Pevensey Levels, the drainage regime will not be affected by additional surface water run off / associated pollutants created by new development. The Assessment recommends a revised form of wording of Policy HNDPE to replace the policy within the submitted version of the Plan, which I will deal with in the specific policy section of this report.
56. The actual assessment of the neighbourhood plan under the Habitat Regulations is a matter that is determined by the District Council as competent authority and as such I am satisfied that the basic condition regarding compliance with Chapter 8 of Part 6 of the Conservation of Species and Habitat Regulations 2017 has been met.
57. I am also satisfied that the basic conditions regarding compliance with European legislation has been complied with. I am also content that the plan has no conflict with the Human Rights Act and I have received no representations on that matter.

## The Neighbourhood Plan: An Overview

58. This plan was prepared against the backdrop of an emerging Wealden Local Plan. That background has to a certain extent shaped some of the content of the document, whether it be the supporting text or in the number of cases that the plan describes as “recommendations” which are seeking to articulate the community’s views on issues that were contained within that draft Local Plan.
59. The decision of Wealden District Council to withdraw the submission version of the local plan, following receipt of the Inspector’s report, has dramatically changed the policy context against which the plan must be viewed. The neighbourhood plan will become part of the development plan going forward. I will be recommending that all references to the draft local plan, that was being considered at the time the submission version of the neighbourhood plan was being drafted, should be removed, as effectively that document no longer exists. To retain that information in the final version of the plan, would not have any relevant context at the time the plan is made if it passes referendum.
60. In time, Wealden District Council will be preparing a new plan and I would strongly urge Hellingly Parish Council and its residents to engage with the local plan process rather than relying upon wording and recommendations which relate to an abandoned local plan. To a significant extent, the local plan comments set out in the submission version of the neighbourhood plan have been superseded. Whilst the community may have wanted to use the vehicle of the neighbourhood plan to express its views on the emerging plan, those comments will no longer be strictly relevant to what would be a ‘made’ plan.
61. Having stated that the submission version of the draft local plan is no longer current, the evidence base upon which it was based, is clearly of importance, as it is the most up-to-date source of evidence which can be used for plan making. The District Council representatives at the hearing did indicate that some of the studies would have to be updated as part of the process of taking the new local plan forward.
62. The consideration of the strategic context of the neighbourhood plan therefore falls back on the policies in the adopted Core Strategy (2013), which identified the area to the north of Hailsham as a strategic growth area, that was expected to provide **at least** 700 new homes. However, 1,259 dwellings have already been built or are committed. In addition, it is likely that a number of large housing sites to the north of Hailsham, within Hellingly Parish, are also likely to come forward. I specifically sought the comments of the Parish Council as to whether, in the absence of an up-to-date strategic framework, it wished to reconsider the overall quantum of development that was being envisaged in the now withdrawn local plan and also what its views were in terms of the sites that had been allocated in that plan. The response was a clear acceptance that the previous levels of growth and the withdrawal of the local plan was not being taken as an opportunity to revisit the proposed levels of development taking place in the parish.

63. The District Council's representatives were clear that the new local plan, upon which work has not yet commenced, would have to contemplate significantly higher housing requirements, not least based on the standard methodology and the new housing delivery test. However, it appears that there was consensus between all parties, that strategic options as to where development should be accommodated within the district, will be key themes that need to be explored as the new local plan progresses and it is not for the neighbourhood plan to have to address these issues which are essentially strategic matters. These opportunities are available as the District Council is now accepting Natural England's advice on the impact of development on Ashdown Forest in regards to air quality, which could open new spatial strategy options including, for example, the consideration of new settlements.
64. Matters are further complicated by the fact that Wealden District Council is currently unable to demonstrate a five-year housing land supply. The implications of this fact are that, upon being made, Hellingly Neighbourhood Plan's housing policies would be immediately considered as out of date. This is further compounded by the decision taken, that the neighbourhood plan would not allocate housing sites and so the dispensation, given in paragraph 14 of the NPPF, does not kick in which reduces the point where the "tilted balance" is applied to areas which have at least a 3-year housing supply. That does not materially impact upon my examination, but it will still be a determining factor related to decision-making on planning applications.
65. This then takes me onto the issue of the neighbourhood plan's inclusion of "Recommendations". The purpose of the neighbourhood plan is to prepare policies for the "use and development of land". The NPPF states "Neighbourhood plans should support the delivery of strategic policies contained in local plans". Secretary of State advice in the NPPG is that neighbourhood plan documents can cover matters that do not relate to the use and development of land, so long as they are clearly indicated as such. The Hellingly plan does distinguish them as "Recommendations" and these are contained within a blue box.
66. However, my concern, which I raised in my preliminary comments, as well as at the hearing, was that some of the "Recommendations" were actually addressing matters that do directly refer to the "use and development of land". For example, they are dealing with whether to propose a development boundary, or urging the District Council not to allocate further land for residential development at North Street or whether Wealden should accommodate an additional 30 homes within the Hellingly core area. These are not being presented as planning policies, which would be the subject of examination or indeed referendum but they are, in effect, expressions of planning policy.
67. At the hearing, following the withdrawal of the local plan, the Parish Council representatives conceded that there was no longer a desire, or a need, to pursue these matters within the neighbourhood plan document. My strong view is that these matters have no place in a neighbourhood plan and that the Parish Council and local residents should take the opportunities presented, as part of the new local plan consultation to submit their views to the District Council. I will therefore be recommending that a

number of “Recommendations” which directly relate to “the use and development of land” should be removed from the document. I do not propose to comment on the other recommendations as they are not development plan policies.

68. The other implications of the local plan’s withdrawal have been the need for the District Council as competent authority to submit a new Habitats Regulations Assessment. As a result of the conclusions of the Inspector, the policy that the District Council had been promoting to mitigate against harm to European Protected Sites is now solely focused on the impact of development on addressing the impact on the Pevensy Levels SAC and Ramsar site.
69. The plan has two primary aims, namely to protect the rural character of the parish and secondly to retain the separate character and identity of the parish’s four main settlements, Hellingly village, Lower Dicker, Lower Horsebridge and Roebuck Park. I believe that the policy that will emerge from this examination will still deliver these aspirations.
70. In terms of meeting the sustainable development basic condition test, I am satisfied that the plan will deliver high-quality development within the character areas and the design policies have been based on generally sound evidence, which is set out in the Character Assessments. It will allow appropriate rural development, whilst protecting the ecological assets of the parish and in particular its ecological networks and wildlife corridors. The plan recognises that new large scale residential development will take place within the parish, delivering new homes to the wider Hailsham area, yet it will still protect the character of the existing settlements.
71. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all the editorial changes to the supporting text. I have, however, chosen to highlight specific paragraphs of the supporting text that need to be changed, but as authors of the plan, the Parish Council will wish to add some more explanatory text which will provide greater clarity or a local dimension to ensure that the plan reads as a coherent planning document, having regard to my recommendations. These should be agreed between Wealden District Council and the Steering Group/Parish Council, when preparing the Referendum Version of the plan. There will also have to be a major exercise in renumbering paragraphs etc. as a result of the changes I have had to recommend to the document.

### ***Recommendations***

***Remove reference in the document to all matters relating to the submitted version of the Wealden Local Plan and in particular:***

- ***Para 8***
- ***Para 14 – last sentence***
- ***Para 15***
- ***Para 25***
- ***Para 98 – omit from last sentence “within Wealden’s Emerging Local Plan”***

- ***Para 99 – omit from the second sentence “coupled with the additional amount proposed within Wealden’s emerging Local Plan”***
- ***Para 100 – omit the first line***
- ***Para 101 replace “Wealden’s emerging Plan” with “a future Wealden Local Plan”***
- ***Para 123 – omit “as well as within the District Council’s emerging Local Plan”***
- ***Para 135 – omit the first sentence***
- ***Para 138***
- ***Paras 142 – 146***
- ***Para 166 – last sentence***
- ***Para 169***
- ***Para 170 – first sentence and remove “therefore” from the second sentence***
- ***Paras 178 – 179***
- ***Paras 190 - 192***
- ***Paras 195 – 196***
- ***Paras 202 – 203***
- ***Para 234 – omit all text after the second sentence***
- ***Para 235 - omit “as recommended in Wealden’s draft plan”***
- ***Para 236 – omit “Wealden’s draft plan confirms that”***
- ***Para 258 – Omit “and in the emerging Local Plan”***

***Remove from the plan all “Recommendations” that address issues relating to the “development and use of land” and in particular:***

- ***Omit Recommendation 3 – HV R3***
- ***Paras 178 – 179 and Recommendation 1- LHB R1***
- ***Reword Recommendation 3 – LHB R3 to “Proposals which provide additional land for leisure/ recreational use in the vicinity of Lower Horsebridge Recreation Ground will be welcomed”.***
- ***Omit Recommendations 1 and 2 – LD R1 and LD R2 and paras 205 – 210***
- ***Amend Recommendation 2 – RP R2 by deleting the first sentence and in the second sentence replace “And further be” with “Measures are”***
- ***In the Education Recommendations – remove i) and ii)***
- ***In the Sports and Leisure Recommendations in i) omit “as Local Planning Authority” and delete ii) and iii)***
- ***In Digital Communication Recommendations replace “10 mgs” with “10 mbs”***
- ***Omit Sewage Recommendation and also para 266***

## The Neighbourhood Development Plan Policies

### Policy HNDPE – Habitat Regulations

72. This has proved to be the most problematical policy, mainly due to the timing of the Local Plan's Inspector's letter. The submitted version of this policy had been recommended by Wealden District Council, to be inserted in the plan, as a result of its Habitats Regulations Assessment and on the basis of the then status of the emerging Wealden Local Plan. The policy was proposed to mitigate the impact of development within the plan area on three European protected areas namely the Ashdown Forest SAC, Lewes Downs SAC and the Pevensey Levels SAC and Ramsar site.
73. I had been alerted to concerns regarding this policy, in particular, the comments of Natural England at the Regulation 16 stage. It became very obvious from reading Natural England's detailed letter that the issues had already been very well rehearsed at the Local Plan examination where Natural England questioned the underlying premise that development across Wealden District's area would adversely impact on the integrity of Ashdown Forest and Lewes Downs through a decline in air quality by increased traffic movements adjacent to and through the protected areas, either alone or in combination with other plans. Natural England considered that predicted improvements in air quality and technological improvements in vehicles should be accounted for in the Habitats Regulations Assessment and in doing so the conclusion is that 'environmental loading will return to below the critical level and loads within an appropriate timeframe'<sup>1</sup>. This conclusion would result in 'no adverse impacts' and would negate the need for mitigation. Furthermore, notwithstanding their concerns regarding the justification for the policy, Natural England also challenged the efficacy of the mitigation measures being proposed in the policy.
74. It was the interface between this neighbourhood plan policy, in particular, and Policy AF1 and Policy AF2 of the emerging Wealden Local Plan, that prompted me to want to await the Local Plan Inspector's conclusions, as she would have heard the full expert evidence, some of which would have been of a highly technical and scientific nature. These were matters of a strategic nature which are more sensibly resolved, if possible, at a higher plan level and should be beyond the remit of a neighbourhood plan for a parish some distance away from both Ashdown Forest and Lewes Downs.
75. I had my own reservations as to whether all development taking place in Hellingly parish could justify the measures being proposed in this policy. My concerns were reinforced, as it appeared to me that this was an approach that was being pursued unilaterally by Wealden District, when in my experience, mitigation measures to address the adverse impacts on European protected sites from development, tend to transcend administrative boundaries and usually require coordinated measures across the different authorities and are normally pursued in conjunction with Natural England. I have in mind the approach being taken at the Thames Basin Heathlands, Epping Forest and also the Solent Bird Disturbance issues.

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<sup>1</sup> Paragraph 25, page 12 of Natural England's Regulation 16 response.

76. My major reservation was that the measures set out in the policy were required to be imposed on all new development and I questioned whether these requirements could be justified, based on an assessment of the impact of every form of development would have on these protected areas. Imposing the three requirements, namely requiring electric vehicle charging infrastructure irrespective of the type of development, the practicality of controlling the routing for freight traffic resulting from the new development and requiring personalised travel planning work, were particularly onerous and unnecessary requirements unless the development was of a significant scale.
77. My concerns regarding this policy were discussed at length at the Hailsham Exploratory Meeting where Hellingly representatives were present, and the District Council representatives, I believe, accepted that the requirements being imposed on **all** new development, was an excessive requirement, irrespective of the possible outcome of the Local Plan Inspector's deliberations.
78. The Inspector's conclusions, particularly on the issue of the impact of development on Ashdown Forest in particular, and her conclusion that the District Councils approach to the science was flawed, has led to a significant change in the scope of this policy which Wealden District Council is now suggesting should be included within the policy.
79. The recommended HRA policy now effectively firstly restates the existing legal position, which is already set out in Regulation 105 of the Conservation of Habitats and Species Regulations 2017. However, I accept that there is a value in setting out the legal requirements, in the policy, not least because it draws attention to the statutory requirement for persons who may not be familiar with the Habitat Regulations.
80. The specific requirements set out in the remainder of the policy are entirely directed to mitigating the impact of development on the Pevensey Levels SAC and Ramsar site. The impact on this important habitat, which lies close to the parish area and the existence of direct pathways, in my opinion, fully justify the requirements of the policy, both in terms of ensuring there is adequate capacity at the waste water treatment works that serve the town and the need to control the quality and quantity of surface water run-off from new development.
81. I am satisfied that this important policy now meets the requirements of the basic conditions in all respects. I therefore recommend that the submission version of this policy be replaced by the revised policy which is included in the latest version of the Habitats Regulations Assessment.

### **Recommendation**

#### **Replace the existing policy with**

***“Development either supported or proposed by policies or projects contained within the Hellingly Neighbourhood Plan, or any other development that may come forward in the Neighbourhood Plan area, may only be permitted if it can be concluded that the proposals, either alone or in combination with other plans or projects, will not adversely affect the integrity of a European site. Any***

***proposals for development must be accompanied by information to allow the competent authority to complete a full Habitat Regulations Assessment of the impacts of the development.***

***To ensure that development does not adversely impact the Pevensey Levels Special Area of Conservation and Ramsar site, proposals for development may only be permitted where there is sufficient capacity at the relevant Waste Water Treatment Works or alternative foul water drainage solution. Where impermeable surfaces are proposed within the hydrological catchment area then mitigation, such as sustainable drainage systems, will be required to control the quality and volume of surface water run-off to a level that will avoid an adverse effect on the integrity of the SAC and Ramsar when considered both alone and in combination with other Plans or projects.”***

### **Policy HNPD1 - Area of Locally Valued Landscape**

82. This policy stems from paragraph 170 of the NPPF, which refers to planning policies contributing to enhancing the natural and local environment by protecting and enhancing *valued landscapes*, in a manner commensurate with their identified quality in the local plan. This policy was the subject of questions which I raised in my primary deliberations and was one of the matters that was discussed at the hearing.
83. The northern part of the parish falls within the southern slopes of the High Weald in the East Sussex County Landscape Assessment. The southern part falls within the Low Weald. From my visits to the area, I was able to appreciate for myself, the different characteristics of the two areas. The area to the north is a more intimate landscape with small fields and woodlands. The area to the south has larger fields with less hedgerows and woodland, and as revealed at the hearing, I heard it referred to as somewhat of an “urban fringe” location.
84. My initial concern was that valuing one type of landscape above another, was not justified as they were both essentially rural areas and the neighbourhood plan was aspiring to retain the rural character of both, but an examination of the evidence has demonstrated that the two parts of the parish do have different characteristics and attributes. I heard during the hearing that the planning officers already differentiate between proposals in the north of the area, and those in the south, based on an assessment of their existing characteristics. In essence, I believe that the policy recognises that greater weight does need to be given to protecting the more rural character of the area which forms part of the High Weald Character Area.
85. Essentially, this policy is a way of triggering the provisions of paragraph 170 of the Framework, by recognising the importance that the community places on the northern area’s landscape value. I note that some of the reasons given justifying why this part of the plan area is being “valued”, have been based on its recreational value to the population of Hailsham and Hellingly parishes, but I do not consider that by itself is a justification for a policy which is based on landscape quality. However, the wording of the policy does need to describe the particular characteristics of the protected area,

which the policy is recognising. There were some discussions as to how that could be worded and I have received some suggested wording from the Parish Council which I am happy adequately describes the characteristics that the policy is designed to protect.

86. In terms of the extent of the designations, the delineation of the Area of Locally Valued Landscape (ALVL) does not coincide with the division between the respective landscape character areas, as described in the national, county and district based character assessments. In particular, the ALVL extends further south than the line shown in the East Sussex Landscape Area and the Landscape and Ecology Studies, which have been prepared as part of the evidence base for the now withdrawn local plan. However, I believe that using the rivers and local roads, as well as excluding the recent development at Roebuck Park, is a defensible basis for the community to define the area, whose landscape value it considers is worthy of protection. I do not therefore propose to recommend any alterations to the alignment.
87. Turning now to the actual drafting of the policy, there will be some development which is by its nature, acceptable development in the countryside, such as agricultural buildings or new residential development that meets the requirements of Policies HNPD7 and HNPD8. It may be that such buildings will have a detrimental impact on the "rural character, scenic quality or visual amenities of the area". However, that harm could be mitigated to a degree that ensures that the balance is struck between protecting the landscape commensurate with its status, as a valued landscape, (albeit lower than the national status confirmed by being in an AONB or a National Park) whilst at the same time ensuring the continued viability of the rural economy. I will therefore be recommending that reference be made to the fact that mitigation could allow the scheme to become acceptable.
88. The five requirements set out in paragraphs i) to v) should not be shown as subordinate requirements as the policy is not conditional upon them. It is not the role of a neighbourhood plan policy to require specific documents to be submitted with a planning application, that is the role of the District Councils Local Validation Checklist. The policy will be used to determine any proposals and it is appropriate for the proposal to be required to assess the level of impact of the development.
89. The specific requirements should be worded positively, namely that proposals will be supported if they protect or enhance the scenic quality or rural character of the area or the rural setting of public footpaths.
90. It is not appropriate for this policy, which relates to landscape matters, to be considering biodiversity or the ecology of the area, which are more appropriately covered by Policies HNPD5 and 6, which address green infrastructure and biodiversity.
91. I have asked for clarity as to which public vantage points offer the long-distance views of the South Downs. In its response, the Parish Council offered three viewpoints from public footpaths. These need to be added to Map1.
92. In the interest of being concise I would recommend that the two policies dealing with lighting proposals should be consolidated.

### **Recommendations**

***In the first sentence replace “the proposals map” with “Map 1”***

***After the first sentence insert “The area is characterised by small fields with well-established species rich hedgerows. It contains numerous areas of surviving Ancient Woodland, some small and some large (e.g. Park Wood and Nobody’s Wood) together with many shaws and copses dotted throughout this landscape. There are a number of traditional Sussex Ghyll woodlands, and many small ponds and water features. Whilst there is some arable use the land is mainly grassland used for livestock farming, very rural in character with few roads and a well-developed network of public footpaths providing impressive long- distance views over the Low Weald to the South Downs”.***

***Move the current second sentence to a new paragraph and remove “only” and replace “that” with “if it”, and add to the end of the sentence “and any adverse impacts can be satisfactorily mitigated”***

***Delete the second paragraph***

***Replace “i” as a separate paragraph and omit “not” and “is considered detrimental to the scenic quality or rural character of the area or impacts” and insert” does not adversely impact “***

***Delete ii) and text***

***In iii) before “public” insert “the” and after “points” add “as shown on Map 1” and add to Map 1 the three viewpoints submitted by the Parish Council as Appendix A to its response to my Initial Comments document.***

***In iv) add at the end of the sentence insert “and that measures to minimise light spillage or glare have been taken”***

***Delete v)***

### **Policy HNDP2 – Local Green Space**

93. The purpose of designating local green space (LGS) is, according to paragraph 100 of the NPPF, to recognise those green spaces that are demonstrably special to the local community and which has particular local significance.
94. The plan is proposing six specific designations, and these are shown on the Proposals Map, albeit with limited clarity. I consider that it would improve the usability of the plan to insert a separate plan for each of the individual LGS sites, and also for the sites to be referred to in the actual policy.
95. I can confirm that I am satisfied that the following sites do meet the NPPF criteria, namely Hellingly Country Park, Lower Horsebridge recreation ground, the field adjacent to Hellingly Village Hall, Lower Dicker cycle way and playground and Union Corner allotment site, Lower Horsebridge.
96. Whilst I recognise the role that Park Wood plays as a recreational resource, enjoyed by the local community and, notwithstanding the representations of the Friends of Park Wood, I do not consider that it meets the strict criteria that local green space has to comply with, namely that it should not be an extensive tract of land. At some 60ha (150 acres), I consider that, whilst there is no definition of what constitutes an

extensive tract of land, the size of the wood would fall outside what a reasonable person would consider to be an extensive tract of land. I understand that the wood is ancient woodland, a designated Site of Interest for Nature Conservation, and an Asset of Community Value and is subject of a Right to Roam Order. The absence of LGS status would not open up the site for development.

97. I am concerned that the policy test against which the proposals will be considered, is not in line with national expectations, in that the policy implies that an applicant could demonstrate that the green space no longer has value to the community or is to be replaced by the facilities of an equivalent value to be provided in the compensation for its loss. The difference between LGS and other green space policies, is that it offers local green space the highest level of protection, which should rule out development, other than in very special circumstances. I will amend the proposed criteria against which planning applications will be judged, to bring the policy closer into alignment with Secretary of State expectations.

### **Recommendations**

***Insert a separate map showing the location and the extent of each Local Green Space within the plan document and refer to the plan numbers rather than the Proposals Map.***

***Reword the policy as***

***“The following sites, as shown on Maps A- E (insert appropriate map number) are designated as Local Green Space where development will be ruled out, except in special circumstances***

- ***Hellingly Country Park***
- ***Lower Horsebridge Recreation Ground***
- ***Lower Dicker Cycling and Playground***
- ***Field Adjacent to Hellingly Village Hall***
- ***Union Corner Allotment Site, Lower Horsebridge”***

### **Policy HNPD3 – Areas of Critical Flood and Drainage Concern**

98. This policy was explored at length at the public hearing and further clarification was given by the Parish Council, in its summary response to my hearing questions. Essentially the plan identifies, on Map 2, flood control zones which are titled Areas of Critical Flood and Drainage Concern. The wording of the policy, meanwhile, refers to this as “an area at risk from flooding”. However, the zone shown on Map 2 is considerably larger than the area identified as at risk of flooding on the Environment Agency flood maps, shown as Flood Zones 2 and 3. I heard at the hearing that the extent of the Area of Critical Flood and Drainage Concern was arrived at by identifying a contour which lies 2 metres above the height of the water level of the maximum recorded flood event.
99. It appears that the background to this policy, arises as a result of concern from the community as to the efficiency of some of the SUDS schemes that have been implemented as part of recent housing development. The Parish Council’s approach,
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rather than requiring surface water management measures to be taken as a part of the development of individual sites, is envisaging a more radical surface water disposal and storage strategy, which seeks to divert all surface water drainage arising from individual development sites to a storage area, close to watercourses where the surface water would subsequently discharge. That storage area would be contained by bunds and embankments, within the area shown on Map 2.

100. The reservation of this zone, which extends beyond the area recognised as being at risk of flooding, would allow the implementation of what would be a radical and innovative drainage strategy, which at this point in time, has not been prepared, tested or adopted, nor a body responsible for its funding, design, construction or ongoing management and maintenance identified, yet the effect of the policy would effectively rule out development proposals on this land- some of which has been identified as having development potential. It is not my role to determine the efficacy of such a communal drainage strategy, but I do have to consider whether the neighbourhood plan should be presuming against development on flooding grounds in an area which is not currently at risk of flooding. In the absence of such a prepared and agreed strategy for surface water management, I cannot see that the reservation of this land can be justified and indeed, I understand that the policy is neither supported by the District Council nor more importantly, East Sussex County Council, the local lead flood authority.
101. There are also additional issues with this policy that mean that it does not currently meet basic conditions. Within the area shown on Map 2, there are areas that are at risk of flooding. The policy says that development “will be restricted *unless the proposal has other public benefits that clearly outweigh the risk of flooding to properties where the risk can be shown to be satisfactorily mitigated*”.
102. The concept of striking a balance between “public benefits”, albeit unspecified, and allowing development in flood risk areas, is a less rigorous position than the Secretary of State’s policy for dealing with development in areas at risk of flooding. Essentially national policy imposes a presumption against all inappropriate development unless the sequential test is passed and the exception test is met, which includes whether the development will be safe for the lifetime of the building.
103. Moving onto the second element of the policy, which deals with sustainable drainage schemes, the Secretary of State, in a Written Statement to the House of Commons dated 14<sup>th</sup> December 2014, required major schemes i.e. 10 units or more (or equivalent for non-residential development) to ensure that sustainable drainage systems for the management of run-off are put in place, unless it is demonstrated that it would be inappropriate. This statement then went on to require clear arrangements for the ongoing maintenance over the lifetime of the development. The Secretary of State explicitly stated that this statement should be taken into account in the preparation of neighbourhood plans.
104. The Department of Environment, Food and Rural Affairs, published in 2015, non-statutory technical standards for sustainable drainage systems. This required that for greenfield site development, measures to limit peak run-off rate from development

should be implemented so as not to exceed the peak greenfield run-off rate. It goes on to deal with the extent of volume control expected to be achieved, where it is practically possible but it requires that “the run off volume must be discharged at a rate that does not adversely affect flood risk”.

105. My conclusion is that this policy does not add to national policy, in a way that is justified by evidence. I heard anecdotal evidence as to the effectiveness of the SUDS schemes that had been implemented but I do not know whether that is a failure to correctly specify and agree an acceptable SUDS scheme or whether it has been implemented incorrectly. I do not conclude that the policy meets basic conditions as it has not had proper regard to Secretary of State policy. I appreciate that this will be a disappointment to the Parish Council but I firmly believe that the approach being promoted is not backed up by convincing evidence as to its feasibility or indeed its justification.

#### ***Recommendation***

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

#### **Policy HNPD4**

106. I agree with the District Council’s representations that where flood risk assessments are required, and the thresholds for these are set out in the Town and Country Planning (Development Management Procedures)(England) Order 2015, the assessment should not just look at the run-off rate from the site but should also seek to assess the impact of flooding and measures to mitigate/eliminate, measures to prevent properties flooding on the site as well as assessing the impact of surface water on adjoining land.
107. Such an assessment will need to look at how much additional surface water run-off from the development will be generated. I am not satisfied that the assessment needs to account for run-off from soft landscaping areas, as that is likely to be the equivalent of the run-off from a greenfield site. I will recommend appropriate revisions.
108. I am not convinced that there is persuasive evidence to justify a presumption against land raising in areas outside of zones that are at risk of flooding. In flood risk zones, I do agree that land raising measures could result in additional flooding elsewhere on land that would not ordinarily flood, had the land raising not taken place. I will restrict the second part of the policy to areas that are identified as being at risk of flooding.
109. The policy can remove the obligation on the LPA to consider the adequacy of the mitigation measures. Whilst the District Council has an obligation to consult with the Lead Flood Authority and the Pevensy and Cuckmere Water Level Management Board, these organisations are consultees and responsibility for any approval/refusals must sit with Wealden District Council.

#### ***Recommendations***

***Replace the text in i) with “Where required, Flood Risk Assessments will be expected to assess whether the development is likely to be affected by current***

***or future flooding from any source, including surface water, and assess whether it will lead to flooding elsewhere, taking into consideration measures being proposed to deal with these issues, particularly surface water run-off.”***

***Replace the text of ii with “There will be a presumption against land raise on development sites in areas identified at being at risk from any form of flooding, unless such mitigation measures are to be put in place to the satisfaction of the Local Planning Authority, in consultation with East Sussex County Council as lead flood authority and Pevensey and Cuckmere Water Level Management Board.”***

***Delete Map 2***

### **Policy HNPD5 – Green and Blue Infrastructure**

110. This policy is specifically aimed at protecting the network of green and/or blue infrastructure which is set out in Map 3. By identifying these networks and wildlife stepping stones, the neighbourhood plan is following the advice in the NPPF. I will propose that in line with my conclusions in respect of Policy HNPD3, that the flood control zones be removed from the map.
111. I have accepted the District Council’s suggestion that the required survey work should more closely reflect British Standards for Biodiversity BS42020:2013 and I will recommend a more flexible form of wording which can be more reflective of good practice for the type of survey being undertaken.
112. Paragraph 175 of the NPPF refers to the threshold through considering “harm resulting from development” should be “significant harm”. To bring the policy closer into alignment with Secretary of State expectations, I will recommend that the revised wording should be “significantly harm to the integrity or function of the protected feature”.
113. The Parish Council had earlier in the examination clarified that the management plan sought in (iv), should only be required in respect of major schemes.

### **Recommendations**

***Remove the Flood Control Zones from Map 3***

***Replace “Proposals Map” with “Map 3”***

***In the first paragraph after “proposals” insert “within the areas identified on Map 3”***

***In i) after “2” insert “/3” and add at the end of the sentence insert “or as stipulated in good practice guidance”***

***In iii) before “harm” insert “significantly”***

***In iv) in the second sentence after “Proposals” insert “for major development”***

### **Policy HNPD6 – Biodiversity**

114. As written this policy places a requirement on any form of development to provide ecological information and to consider cumulative impacts. I do not consider that this is a necessary or reasonable expectation to impose on all applicants, particularly as

the Local Validation Checklist already sets out the circumstances where a Biodiversity and Survey Report is required. If a proposal is unlikely to have any impact on wildlife or biodiversity, such as a residential extension, it is not a proportional requirement to insist that such information be provided. At the hearing, I heard that the District Council's validation checklist was due to be reviewed.

115. Under paragraph 11(3) (d) of the Town and Country Planning (Development Management Procedures) (England) Order 2015, the list must have been published (or re-published) during the two-year period immediately before the date on which the planning application where the requirements are imposed, was made. It is usual practice for some form of consultation to take place on these requirements and it may be appropriate for the Parish Council to seek to make its own representations as to the information the LPA should be requiring an applicant to submit.
116. I consider that the need to consider cumulative impact is too vague a requirement for most assessments – is it considering the impact on specific species or habitats? I would recommend the introduction of a caveat “as far as it is appropriate having regard to the scale and nature of development and its impact on the wider ecological network”.
117. The policy requirements to “improve, enhance, manage and restore biodiversity” will only be relevant to particular forms of development and there will be instances where it is not appropriate. I will suggest that the policy is covered by a caveat “where appropriate”.
118. The policy appears to be aimed at residential development by referring to 10 or more houses. There could be similar biodiversity impacts from larger commercial schemes so I will refer to them generically as “major development”.

#### *Recommendations*

***At the end of i) insert “as far as it is appropriate, having regard to the scale and nature of development and its impact on the wider ecological network”.***

***At the start of ii) insert “Where appropriate”***

***In iv) replace “10 or more houses” with “schemes comprising major development”***

#### **Policy HNPD7 – Rural Economy**

119. I am not convinced that there is sufficient justification to require development that is considered to be appropriate in the rural location, to have to demonstrate that it is “sustainable” by providing economic, social and environmental benefits. That would go beyond the Secretary of State's expectation which are set out in paragraphs 83 and 84 of the NPPF, which deals with supporting a prosperous local economy.

#### *Recommendations*

***Delete “Subject to compliance with other policies in the NDP”***

***Delete the second sentence of the policy***

### **Policy HNPD8 – Isolated New Dwellings**

120. Again, this was a policy that was discussed at the hearing. The issue was whether it was appropriate for the plan to be seeking to establish additional tests to be imposed on applicants, beyond those set out in national advice. This includes the need for financial tests which had, in the past, been part of national policy, with the now withdrawn PPS7 and was no longer forms part of the NPPF. At the hearing, we discussed that the Framework's policy, in paragraph 79 are now supplemented by additional advice, published last summer, in the Planning Practice Guidance, which gives criteria for assessing whether rural worker accommodation is deemed essential, including the need to demonstrate having 24-hour presence on site, because of the risks to human or animal health, discouraging crime and being able to respond to emergencies.
121. I do not believe that the evidence submitted, actually justifies imposing additional criteria beyond those which have been published at national level and I heard that there were no particular local issues that the policy was seeking to respond to. I will therefore be recommending that the policy be deleted.

#### ***Recommendation***

***The policy be deleted***

### **Policy HMDP9 – Housing Type**

122. At the hearing, we touched on the issue of whether it was necessary to caveat a policy with “where the principle of new residential development is appropriate”, as the plan was not promoting a policy to indicate where residential development was or was not considered acceptable. That is a matter which the Parish Council is choosing to leave to local plan policy and national guidance. Planning applications have to be assessed against all relevant policies in the development plan, so it is unnecessary, to include this requirement within the drafting of the policy. I will therefore be recommending that the policy supports a high percentage of homes for the elderly and starter homes/shared ownership.

#### ***Recommendation***

***Delete the first part of the sentence up to “Proposals”***

### **Policy HMDP 10 – Sustainable Transport**

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

### **Policy HV1**

124. I will recommend changes in the wording of the policy so that it is not necessary for the applicant to have to demonstrate compliance where he/she is not required to submit a Design and Access Statement.
125. I had, earlier in the examination, requested the Parish Council to confirm what it considers are the key views and this has been provided to me. I am satisfied that,

following my last visit, these viewpoints are worthy of recognition and I will therefore request that these viewpoints be added to Map 4.

126. What constitutes an "unnecessary and inappropriate incursion" would be something of a subjective judgement and is not a sound basis for decision making. Similarly, I am not sure that a decision maker could be in a position to define what the policy refers to as the Hellingly "identity". I consider that the presumption should be against any development that detracts from the historic development pattern of the settlement.
127. Again, in the second part of the policy, reference to "unwanted and unjustified" is unnecessary, as development which erodes the rural character of Hellingly should be resisted, whether justified or not. Sufficient flexibility is available through the "exceptional circumstances" caveat.

#### **Recommendations**

***In the first sentence, replace "planning permission will be required" with "the submission of a Design and Access Statement which will be expected"***

***In i) replace the remainder of the first sentence after "key views" and insert "and vistas as shown on Map 4" and in the final sentence omit "and identity"***

***Insert the key views and vistas on Map 4 which were provided at the Hearing***

***In ii) replace "avoids unnecessary and inappropriate incursions that" with "does not"***

***At the start of the second main paragraph, delete "Unwanted and unjustified" and also "and identity"***

#### **Policy HV2 - Specific Design Criteria Hellingly Village**

128. I raised an issue in my Initial Comments document as to how a decision maker would necessarily assess whether a planning application was proposing a "standard design". The Parish Council proposed in its response an alternative form of wording that schemes "that do not respect local character, identity and distinctiveness" should be avoided.
129. Criteria iv) essentially repeats criteria v) from Policy HV1. I consider that the term "overly large" extensions would also be difficult to define, especially bearing in mind the scope for extensions under permitted development.
130. Requirement v) again matches the information required by vi) of Policy HV1.

#### **Recommendations**

***Replace i) with "Designs that do not respect local character, identity and distinctiveness will not be supported"***

***Delete iv) and v)***

#### **Policy LHB1**

131. The proposed basis for considering locally listed buildings, as set out in the policy, is more stringent than that envisaged by the Secretary of State, in paragraph 197 of the Framework, which requires a balanced judgement to be exercised having regard to

the scale of any harm or loss against the significance of the building. I will recommend appropriate wording so that it meets the basic conditions of having regard to Secretary of State policy.

132. The important views referred to in iii) have been identified by the Parish Council and I will amend the wording so that it refers to Map 5 and I will request these views be shown on the map.
133. Criteria iv) essentially repeats the protection of the LGS, which is covered by Policy HMDP2 and this can be removed from this policy.

#### **Recommendations**

***In the first sentence after “required” insert “where appropriate”***

***In ii) replace “no adverse impact upon such buildings” with “regard to the scale of loss or harm when balanced against the significance of the building”.***

***In iii) After “pattern” delete the remainder of the sentence and insert “and the key views and vistas as shown on Map 5”***

***Insert the key views and vistas on Map 5 which were provided at the Hearing***  
***Delete iv)***

#### **Policy LHB2 – Specific Design Criteria – Lower Horsebridge**

134. The issue relating to references to standard design applies equally to this policy.

#### **Recommendation**

***Replace i) with “Designs that do not respect local character, identity and distinctiveness will not be supported”***

#### **Policy LD1**

135. The same issue arises relating to the wording of policy including those related to the locally listed buildings.

#### **Recommendations**

***In the first sentence after “required” insert “where appropriate”***

***In ii) replace the rest of the requirement after “scheme” with “has regard to any scale of loss or harm, when balanced against the significance of the building”.***

***At the end of iii) insert “as shown on Map 6”***

***Insert the key views and vistas on Map 6 which were provided at the Hearing***

#### **Policy LD2 – Specific Design Criteria – Lower Dicker**

136. Again, I have no comments beyond the matters already referred to.

**Recommendation**

**Replace i) with “Designs that do not respect local character, identity and distinctiveness will not be supported”**

**Policy RP1**

137. I have sought clarification as to which viewpoints are to be protected. These will be shown on Map 7.
138. I do not consider that *all* developments in Roebuck Park should have to demonstrate how the development will support the provision of local facilities. How would a resident wishing to carry out alterations to his or her property, be expected to demonstrate how their proposal will meet such a requirement? This requirement would only be justified, if the proposal would introduce a significant increase in population of the character area. I will adopt the Parish Council’s proposals which refer to *major* new development.
139. This policy has generated representations on behalf of the owner of the land to the south of Roebuck Park, Catesby Estates plc. Its concerns were discussed at length at the hearing and the Parish Council indicated that it had no fundamental objections to the revised wording being promoted. I would recommend amendments to the policy wording that takes these matters forward. I will also recommend changes to paragraph 221 as part of the supporting text to reflect the likelihood of development taking place on the farmland to the south of Roebuck Park.
140. The fourth requirement also needs adjusting, to address the weight to be accorded to proposals that impact upon non-designated heritage assets.
141. I will propose the rewording of the final requirement as policies should be positively expressed, so that it reads that a development that preserves the parkland setting of the site will be supported.

**Recommendation**

**Add to paragraph 221 “Any future development within the farmland to the south should aim to prevent the merging of traditional settlement boundaries and loss of village identity through the offsetting of future development from the southern fringe of Roebuck Park. This may be through the placing of public open space, sports pitches etc. at the northern end of the agricultural farmland. The form and layout should also be sympathetic to existing views to and from Roebuck Park, as shown on Map 7”**

**In the first sentence after “required” insert “where appropriate”**

**In ii) before “it” insert, “in the case of major development”**

**In iii) Replace the wording with “that it has regard to retaining the key viewpoints and vistas as shown on Map 7”**

**Insert the key views and vistas on Map 7 which were provided at the Hearing**

**In the final paragraph, replace “erodes” with “retains”, before “setting” insert “immediate” and replace “resisted” with “supported”**

### Policy RP2 – Specific Design Criteria Roebuck Park

142. The only proposal I will make, is that the reference to “true attic” – which is open to interpretations as to what a *true attic* is, be replaced with a requirement that dwellings should be no higher than two storeys, plus accommodation within the roof space.

#### *Recommendation*

***Replace “true attics” with “rooms in the roofspace”***

### Policy LHA1

143. Again, my concern is that the weight given to the protection of non-designated heritage assets is inconsistent with Secretary of State policy for dealing with such buildings. As written the policy offers the same weight of protection of non-designated heritage assets as if it were to a listed building.
144. The neighbourhood plan can actually designate buildings as non-designated heritage assets and I will revise the policies so not only is it in line with Secretary of State policy but will also list the buildings so they enjoy the protection of the policy.
145. The final paragraph does not add to the existing protection covering listed building already existing in legislation and national and local policy. I will recommend that that part of the policy be deleted.

#### *Recommendation*

***Delete the first two paragraphs including i) and replace it with***

***“The following buildings are designated as non-designated heritage assets – insert the list of buildings set out in Appendix 2.***

***Proposals affecting such buildings will be expected to be assessed having regard to the scale of loss or harm when balanced against the significance of the building”.***

***Delete the last sentence of the third paragraph***

***Delete ii)***

### The Referendum Area

146. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Hellingly Neighbourhood Plan as designated by Wealden District Council on 5<sup>th</sup> November 2015 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

147. I must congratulate Hellingly Parish Council for preparing a locally distinct and focussed neighbourhood plan, which seeks to deliver on the expressed priorities of the community. The plan delivers on its two main objectives namely to protect the rural character of the parish and secondly to retain the individual character of the existing settlements within Hellingly parish, whilst recognising that the parish will continue to grow, as a result of strategic policies for this area, which lies on the northern edge of the town of Hailsham.
148. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
149. **I am therefore delighted to recommend to Wealden District Council that the Hellingly Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd  
27<sup>th</sup> March 2020