



Slaugham Parish Council
**Slaugham Parish
Neighbourhood Plan
2013 - 2031
Submission Version**

Independent Examiner's Report

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Summary

I have been appointed as the independent examiner of the Slaugham Parish Neighbourhood Plan.

Slaugham Parish Council is to be commended for taking on the challenge of the opportunities afforded by neighbourhood planning. This Neighbourhood Plan is the first in Mid Sussex District to reach examination stage.

The Neighbourhood Plan is in many respects a good example of positive planning. However, my role as independent examiner is to assess it to ensure that it meets the basic conditions and other requirements set out in legislation and regulations.

It is with regret that I have reached the view that the Neighbourhood Plan is not compatible with the requirements of European Union obligations insofar that a Strategic Environment Assessment is required and the one submitted as Appendix B to the Neighbourhood Plan is not satisfactory in a number of respects. Given that this is a legal requirement and one that I cannot recommend modifications to, I have concluded the Slaugham Parish Neighbourhood Plan should not proceed to a referendum.

I have also found that whilst the Neighbourhood Plan recognises the need for new housing development, the target it sets for the Plan period is not based on sufficiently robust evidence. This in turn has resulted in three site allocations for residential development which fall within the High Weald Area of Outstanding Natural Beauty that are not necessarily deliverable and have not been sufficiently justified given the great weight the National Planning Policy Framework attaches to the protection of landscape and scenic beauty. Given the District Plan context and as much of the Parish falls within the AONB, a robust assessment of need and of suitable and available sites was required to ensure that the policies and proposals in the Plan would contribute to the achievement of sustainable development, have regard to national policy and guidance and generally conform to the strategic policies of the development plan.

In the interests of completeness I have gone on to recommend other modifications that I consider to be necessary to meet the basic conditions to assist the Parish Council in deciding a way forward.

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17 January 2014

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1.0 Introduction

- 1.1 Neighbourhood planning provides a welcome opportunity for communities to directly shape the future of the places where they live and work and to deliver the sustainable development they need. The Slaugham Parish Neighbourhood Plan (SPNP) is one of the first such plans to reach examination stage in England and is the first in Mid Sussex District. It also incorporates the first two Community Right to Build Orders (CRtBO) in the country to reach examination stage. Therefore in many respects the SPNP and its associated CRtBOs break new ground and Slaugham Parish Council is to be commended for its initiative.
- 1.2 This report examines the Slaugham Parish Neighbourhood Plan. The two CRtBOs are subject to separate reports as they are separate entities. However, both CRtBOs form part of the suite of policies and proposals in the Neighbourhood Plan and therefore they are referred to in this report insofar as they relate to the Neighbourhood Plan.
- 1.3 Slaugham Parish is a predominately rural area with the four villages of Handcross, Pease Pottage, Warninglid and Slaugham surrounded by countryside. Most of the Parish lies within the High Weald Area of Outstanding Natural Beauty (AONB). Gatwick Airport lies to the northwest and has an important influence on the District as a whole. To the south of the District lies the South Downs National Park.
- 1.4 The Plan sets out a vision for the Parish over the next twenty year period or so. The role of Handcross as the main service centre will be reinforced and Pease Pottage will be more self-sustaining. The distinctive identities of all four villages will have been maintained. Housing provided will address local housing need and the working population will be supported. Design of new buildings will meet the challenge of low carbon, but reflect local character. Strong protection for the AONB, habitats and open spaces is given. Sitting underneath the overarching vision are a series of objectives and measures designed to support and implement this vision.

2.0 Appointment of the independent examiner

- 2.1 I have been appointed by Mid Sussex District Council with the agreement of the qualifying body, Slaugham Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS).
- 2.2 I confirm that I am independent of the qualifying body and the local authority. I have no interest in any land affected by the Neighbourhood Plan or the draft Community Right to Build Orders. I am a chartered town planner with over twenty years experience in planning and have worked in the public, private and academic sectors. I therefore have the appropriate qualifications and experience to carry out this independent

examination.

3.0 The role of the independent examiner

3.1 The examiner must assess whether the Neighbourhood Plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

3.2 The basic conditions¹ are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

3.3 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site² or a European offshore marine site³ either alone or in combination with other plans or projects
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

3.4 The examiner is also required to check⁴ whether:

- The neighbourhood plan has been prepared and submitted for examination by a qualifying body
- The neighbourhood plan has been prepared for an area that has been

¹ Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as

² As defined in the Conservation of Habitats and Species Regulations 2012

³ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴ Set out in paragraph 8 (1) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

- properly designated for such plan preparation
- The neighbourhood plan meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area
- The policies relate to the development and use of land for a designated neighbourhood area.

3.5 The examiner must then make one of the following recommendations:

- The Plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The Plan can proceed to a referendum subject to modifications or
- The Plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

3.6 If the plan can proceed to a 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.

3.7 If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Mid Sussex District Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

4.0 Compliance with matters other than the basic conditions

4.1 I now check the various matters as set out above in paragraph 3.4 of this report.

Qualifying body

4.2 Slaugham Parish Council (the Parish Council) is a qualifying body able to lead the preparation of a neighbourhood plan. This complies with this requirement.

Plan area

4.3 All of the administrative area of Slaugham Parish was designated as a neighbourhood area on 9 July 2012 by Mid Sussex District Council. Whilst other documents such as the basic conditions statement refer to the area being designated in September 2012, the formal designation date of 9 July was confirmed by letter dated 16 July 2012 from Mid Sussex District Council to the Parish Council and is available on the Council's website. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

Plan period

- 4.4 A neighbourhood plan must specify the period for which it is to have effect. The Plan clearly indicates on the front cover and within the document itself that it covers the period of 2013 – 2031. This therefore meets this requirement.

Excluded development

- 4.5 The Plan does not include policies or proposals that relate to any of the categories of excluded development and therefore meets this requirement.

Development and use of land

- 4.6 Neighbourhood plans often contain projects or aspirational policies that signal the community's priorities for the future of their local area. However, the neighbourhood plan should only contain policies relating to development and use of land. Therefore where a policy is considered to fall outside of this scope I have recommended that the policy be moved to a different section or appendix of the Plan. This is because matters or projects of this nature can continue to be included within the general text as they represent proposals the community seeks to achieve, but they should be deleted as policies. Once moved into a different section or appendix of the Plan, this should be clearly differentiated from the planning policies section of the Plan.
- 4.7 Subject to the contents of this report which recommends some modifications be made to ensure that the policies in the Plan relate to the development and use of land in the neighbourhood area, this requirement can be satisfactorily met.

5.0 The examination process

- 5.1 It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan.
- 5.2 I held a procedures meeting with representatives from Slaugham Parish Council and Mid Sussex District Council on 23 August 2013. A note of that meeting was placed on the Council's website in the interests of openness and transparency.
- 5.3 I received correspondence from Barton Willmore after the period of consultation had ended in relation to a site known as 'Land south west of Handcross Primary School, Handcross'. This site is, at the time of writing, subject to two current planning appeals. I replied indicating that the examination is a separate process from the appeals process and in any case the consultation period had ended. Therefore I could not accept any further representations. A copy of my reply was placed on Mid Sussex District Council website and sent to the Parish Council in the interests of openness and transparency.

- 5.4 I also had a number of other requests from people wishing to make representations after the consultation period had ended or who wished to speak at the hearing, but had not been invited to participate at it. Any representations submitted after the consultation period had ended were not taken into account in the interests of fairness to all parties. All were contacted on my behalf by Officers from Mid Sussex District Council who explained the process and position and I am grateful for their timely assistance in these matters.
- 5.5 The general rule of thumb is that the examination will take the form of written representations.⁵ However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case.
- 5.6 After preliminary consideration of the documentation and representations, I decided it was necessary to examine various issues by way of a hearing. A public hearing was held on 4 November 2013 at Handcross Parish Hall, Handcross and was very well attended. The public notice of the hearing and my note which sets out further details including the issues to be addressed at the hearing and the invited participants were placed on the Mid Sussex District Council website. Mid Sussex District Council Officers also produced a note of the hearing which represents their own record of the matters discussed. This note has been placed on the District Council's website for information purposes.
- 5.7 I am grateful to both the Parish Council and the District Council for their assistance in dealing with the arrangements for the hearing effectively and efficiently and for making the day of the hearing run smoothly. I wish to record my thanks to the invited participants for their assistance to me in answering my questions and to them and those in the public gallery for the courtesy and professionalism extended to me and each other during the hearing.
- 5.8 At this point I wish to emphasise that whilst I decided it necessary to hold a hearing to adequately examine a number of issues, I have carefully considered all representations made whether or not those who made representations took part in the hearing. It is not the case that a representation is more, or less, valid simply because it has been considered at the hearing.
- 5.9 I undertook an unaccompanied site visit around the Parish and its four villages on 3 November 2013.

⁵ Schedule 4B (9) of the Town and Country Planning Act 1990

6.0 Consultation

- 6.1 A number of representations related to the consultation process and for this reason I make some observations on it in this section. Concerns included a lack of awareness of the Plan and its proposals prior to the submission plan consultation stage; consultation had been rushed; there had been a lack of engagement with developers and landowners; and the process had not been representative. Given that there were a number of representations expressing such concerns, the consultation statement⁶ and basic conditions statement⁷ were included on the agenda for the hearing to enable these matters to be explored further.
- 6.2 A steering group was set up to lead the Plan process comprising of two people from each of the four villages in the Parish including one Parish Councillor. The Parish Council has also had support from Action in Rural Sussex (AiRS) who have undertaken surveys and evidence gathering for the Plan, and from consultants rCOH Ltd. Various events and exhibitions have been held together with updates on the Parish Council website and publicity including through the local press to bring the Plan to the attention of the community and to encourage participation.
- 6.3 Whilst it is apparent that community involvement and engagement has taken place during the evolution of the Plan, I found the consultation statement to be relatively difficult to follow. In my view the consultation statement could benefit from being made clearer so that it aligns more with the requirements and deals with them in a systematic manner as well as being more comprehensive in its coverage. There is, for example, little information about the outcomes of some of the community events held and whether the process would have benefited from targeting particular groups of people to help with inclusiveness, or indeed whether the issue of wider representation and participation was considered.
- 6.4 Whilst it is appropriate that a neighbourhood plan might contain options during its evolution, at the pre-submission consultation stage the document should only contain the preferred approach. A qualifying body must consult on the pre-submission plan for at least six weeks. As well as bringing the plan to the attention of the community, it must also consult any of the bodies set out in Schedule 1 to the Regulations whose interests the qualifying body consider may be affected.⁸
- 6.5 In this case a pre-submission version of the Plan was consulted on for some eight weeks in December 2012. However, this version of the Plan contained two options – A and B. After that consultation period what is referred to as the ‘revised pre-submission’ Plan was consulted on for three weeks. It is this revised pre-submission version of the Plan which

⁶ Neighbourhood Planning (General) Regulations 2012 Reg 15

⁷ *Ibid*

⁸ Neighbourhood Planning (General) Regulations 2012 Reg 14

contained the preferred approach (option B) and therefore in my view it is this version which should be regarded as the pre-submission plan for the purposes of the Regulations. Therefore I consider this version of the Plan i.e. the revised pre-submission plan, should have been subject to a consultation period of at least six weeks. It was only subject to three weeks. Whilst I appreciate that overall more than the required consultation has taken place, the consultation required by the Regulations has not, in my view, been undertaken.

- 6.6 Table 2 in the consultation statement lists those persons consulted and the method of consultation. This includes the Environment Agency, Natural England, English Heritage and the High Weald AONB Board. At the hearing it was explained by the Parish Council that statutory bodies were consulted about the approach of consulting for three weeks on the revised pre-submission plan and the Strategic Environmental Assessment (SEA) and raised no objections. Participants at the hearing also indicated they considered the requirements to have been met.
- 6.7 In addition it is not clear whether any of the bodies in Schedule 1 were considered (although some appear on the Table 2 list). It would have been helpful for at least some indication that they have been considered even if that concluded none of their interests were affected.
- 6.8 Table 3 in the consultation statement summarises the issues raised during what is termed 'Regulation 14 pre-submission plan', but refers to comments received in February 2013 and therefore refers to the version of the plan that contains the two options rather than the revised pre-submission version which I regard as the critical version for the purposes of the Regulations. Table 4 in the consultation statement summarises the issues raised during the three week consultation on the revised pre-submission plan. In themselves the tables are a useful way of recording responses and the consideration given to each by the qualifying body.
- 6.9 During the course of the publicity period for the submission version for the CRtBO 1, it transpired that the document made available for publicity purposes had some pages missing. The consultation period was therefore extended on this CRtBO until 10 September 2013 to meet the requirements outlined in Regulations.⁹
- 6.10 Overall it would have been helpful for the consultation statement to have been clearer and for it to fully address the requirements set out in Regulations. In addition I am concerned that the requisite period of consultation has not been carried out on the 'revised pre-submission' version of the Neighbourhood Plan.

⁹ Neighbourhood Planning (General) Regulations 2012 Reg 23

7.0 Compliance with the basic conditions

National policy and advice

- 7.1 The main document that sets out national policy is the National Planning Policy Framework (the Framework) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹⁰
- 7.2 The Framework also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹¹
- 7.3 The Framework indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹²

Sustainable development

- 7.4 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The Framework as a whole¹³ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁴
- 7.5 Whilst there is no legal requirement for a sustainability appraisal, an environmental assessment may sometimes be required if the neighbourhood plan is likely to have a significant effect on the environment. For this reason, environmental implications must be considered at an early stage.

The development plan

- 7.6 In this case the development plan for Slaugham Parish comprises the Mid Sussex Local Plan 2004 (MSLP 2004). The District Council has started work on a new Local Plan, but this is at an early stage.

¹⁰ National Planning Policy Framework (2012) paras 14, 16

¹¹ National Planning Policy Framework (2012) para 184

¹² *Ibid* para 17

¹³ *Ibid* para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁴ *Ibid* para 7

- 7.7 Whilst the neighbourhood plan has sought to take account of the policies in the emerging district level plan, the basic condition against which I must examine the neighbourhood plan is that it must be in general conformity with the strategic policies in the development plan. This is currently the saved policies of the Mid Sussex Local Plan 2004.
- 7.8 A number of representations indicated that the Neighbourhood Plan was premature and should wait until a more up-to-date district level local plan is in place. However, there is nothing in the legislation to support the contention that a neighbourhood plan should 'wait' for a district level plan or to prevent a neighbourhood plan being developed before or whilst such a local plan is being produced.
- 7.9 However, in these circumstances I would regard it as good practice for the qualifying body and local planning authority to work closely together.
- 7.10 It is also useful for the local planning authority to indicate which policies it might regard are the strategic level policies and to what extent they reflect the more up to date guidance in the Framework if they are contained in an older style local plan. A checklist produced by Mid Sussex District Council which outlines the Neighbourhood Plan policy and checks its conformity with the Local Plan, emerging plan and the Framework is invaluable in this respect. Whilst such a checklist does not negate the qualifying body's, or the examiner's, responsibilities in this regard, it provides at the very least a useful starting point. Section 4.2 in the State of the Parish of Slaugham Report (16 October 2012) lists the relevant saved policies and section 4.3 of that report goes on to discuss the overall direction of the district level plan and this sets out a useful context for the SPNP.
- 7.11 At the hearing MSDC Officers confirmed that they considered the SPNP's content was in general conformity with the MSLP 2004.

European Union (EU) obligations

- 7.12 A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into UK law, in order to be legally compliant.

Strategic Environment Assessment

- 7.13 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is particularly relevant to this Neighbourhood Plan. This Directive is often referred to as the Strategic Environment Assessment (SEA) Directive.
- 7.14 The basic conditions statement explains that when the neighbourhood plan process began in 2012, it was understood that a Sustainability Appraisal would be required. However, over time it became apparent that there was no requirement for neighbourhood plans to undertake a Sustainability Appraisal (SA). The basic conditions statement explains that this resulted in the formal (SA) appraisal process being abandoned.

- 7.15 Although it is not necessary for a Sustainability Appraisal to be carried out, a neighbourhood plan might well require a strategic environment assessment (SEA). This is recognised by the Parish Council as a SEA has been included with the submission version of the Plan as Appendix B.
- 7.16 The basic conditions statement indicates that the SEA process was maintained after the SA was abandoned and an “informal assessment” of the so-called sustainability merits of the Plan “left to” to that statement. The statement also refers to an “early informal appraisal” of objectives and “fixed” and “variable” measures. It refers to a “very limited” scope for alternative strategies. Table B in the basic conditions statement summarises the so-called sustainability attributes of each policy. This in itself is quite an interesting exercise and usefully highlights the ‘push and pull’ between the environmental, social and economic facets of sustainable development. However, given the SEA in Appendix B of the submission plan and the comments in the basic conditions statement there appears to be some confusion around what is needed.
- 7.17 The requirement for a SEA is not disputed by the Parish Council and one has been included with the submission version of the Plan. Although the SEA states that Mid Sussex District Council has not issued a screening opinion, this is not the case. The Council has in fact issued a screening opinion that a SEA will be required for all neighbourhood plans that allocate land for housing or employment. As this plan does allocate sites for these purposes, a SEA is required. This screening opinion was issued by the District Council in June 2013, after work had started on this particular neighbourhood plan.
- 7.18 Concern is raised in some representations and at the hearing that social and economic issues were not given sufficient prominence or even considered at all in the SEA. The Parish Council disputed this at the hearing. I am of the view that SEA does and should only cover environmental issues.
- 7.19 The basic conditions statement refers to the State of the Parish report dated 16 October 2012 published for consultation with the statutory bodies as Stage A of the SEA process. Comments were then taken into account in Stages B and C of the SEA process alongside the pre-submission and revised pre-submission versions of the plan. The revised pre-submission version of the Plan included a draft SEA and the submission version of the Plan (subject to this examination) incorporated the final SEA.
- 7.20 I have carefully considered the SEA at Appendix B of the Neighbourhood Plan (submission version). Given that the District Council has issued a formal screening opinion requiring a SEA, the SEA needs to legally comply with Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended). These set out

various legal requirements and stages of the SEA.

- 7.21 The first area of concern is whether or not a scoping report or stage (often referred to as Stage A) has been satisfactorily carried out. A scoping report is subject to consultation with various statutory consultees who have a five week period to respond.¹⁵ The consultation statement indicates that the Steering Committee approved the State of the Parish report as the SEA scoping report in mid October 2012. Yet minutes of the neighbourhood planning committee meetings held on 26 February and 4 March 2013 (although the heading of the minutes are not dated with a year) included with the consultation statement indicate that advice had been received from MSDC that the SEA must be undertaken before the next draft (submission) plan. At the hearing the Parish Council confirmed that the State of the Parish document is the scoping report. This document is a separate report and should not be confused with Section 2 in the SPNP which is also titled 'State of the Parish'.
- 7.22 At the hearing the Parish Council explained that statutory bodies had been consulted on the State of the Parish report by letter dated 17 October 2012, but it seems that this letter regarded the report as the scoping report for a SA and it is not clear to me whether this was a formal consultation of the type necessary or what the responses of those statutory consultees were.
- 7.23 At the hearing the Parish Council indicated that SA consultations took place as part of the pre-submission version.
- 7.24 I appreciate that during the course of work on the neighbourhood plan, it was not clear whether a sustainability appraisal or strategic environmental assessment was required and that clarification occurred during the process. It appears that a draft SEA first appeared at the revised pre-submission draft stage.
- 7.25 Either way, the State of the Parish report does not have elements of a typical stage A and does not equate to a SEA scoping report and has not, as far as I can tell, been subject to the necessary consultation. As a result I cannot be sure that the SEA is legally compliant.
- 7.26 The next stages of preparing a SEA (sometimes referred to as Stages B and C) would then include consideration of reasonable alternatives. Given that the plan allocates sites, this forms an important part of the plan. There is little information to demonstrate how reasonable alternatives were identified, how they were assessed and compared or why the chosen sites were selected. Although some of the allocated sites were selected as the Parish Council had control over them through ownership or part ownership and this in itself may be sufficient reason in regard to the SEA, it is not clear how reasonable alternatives were

¹⁵ Environmental Assessment of Plans and Programmes Regulations 2004 12 (5), 12 (6)

identified or assessed. These concerns have also been expressed in representations and at the hearing. This assessment should have formed part of the SEA process and informed the selection and refinement of the preferred options.

- 7.27 As the plan allocates sites, site-specific characteristics should have been identified. Instead the SEA relies on the use of some of the environmental criteria from a District level draft Sustainability Appraisal prepared in conjunction with the emerging District Local Plan. Those criteria therefore have not been tested as they form part of a suite of emerging documents at District level. In addition and arguably more importantly, those District level criteria may not be detailed or site-specific enough for use at the scale of the neighbourhood level or sufficient in themselves. Representations have also queried the criteria used.
- 7.28 The preparation of the Environmental Report (Stage C) must identify, describe and evaluate the likely significant effects on the environment of implementing the policies in the neighbourhood plan and of the reasonable alternatives taking into account the objectives and geographical scope of the plan. It should show how those requirements have been met. The SEA submitted does not do this adequately.
- 7.29 Finally, each Environmental Report requires a non-technical summary. There is no such summary.
- 7.30 I note that Natural England's representation generally welcomes the Submission Plan and accompanying SEA. The representation confirms that, in their view, the SEA has "provided a systematic assessment of the Submission document in terms of its likely effects. We concur with its conclusions that the Plan will not result in any significant environmental effects and that there are clear means of mitigating for any minor environmental effects."¹⁶ I also note that MSDC has indicated they are satisfied with the SEA.
- 7.31 However, I have reached a different view. It is not clear whether the consultation bodies were contacted formally to consider the scope and detail of the environmental report needed and in any case the State of the Parish report which the Parish Council considers to be the scoping report is inadequate for this purpose. It is critical that even if the correct procedures were followed, that it can be demonstrated that this is the case and therefore a clear audit trail is needed. There is no clear audit trail. Given the majority of the neighbourhood area falls within an AONB, a sensitive landscape given the highest protection by national policy, it is important that the characteristics of the area were identified and an adequate explanation of those likely to be significantly affected was given. The impacts of the Plan were not explained fully and the

¹⁶ Letter from Natural England of 18 June 2013

alternatives considered did not provide an outline of the reasons for selecting the alternatives leaving it difficult to understand the rationale behind what is supposed to be an iterative process.

- 7.32 Therefore I have come to the conclusion that substantial compliance with the requirements of the Directive 2001/42/EC has not been demonstrated and therefore the Plan does not meet this basic condition. Given that the SEA does not comply with legal requirements there are no modifications I can recommend to remedy this circumstance.
- 7.33 I appreciate that Slaugham Parish Council and others involved in the production of the neighbourhood plan will be disappointed by this. It is often the case that those pioneering a new power such as the development of a neighbourhood plan can run into the buffers. Whilst it might be of little initial comfort, I am convinced that the work carried out by the Parish Council and the community will not be wasted as a result of this set back. In addition I am sure that the work carried out by the community and this examination may help other communities to achieve their aspirations for their locality as it will add to experience in the field of neighbourhood planning.
- 7.34 Despite this fundamental and unfortunately fatal issue which means that I cannot recommend the SPNP proceeds to a referendum, I go on to examine the Plan in relation to other basic conditions and legal requirements to give what I hope will be helpful feedback to the Parish Council.

European Convention on Human Rights (ECHR)

- 7.35 The basic conditions statement only contains a short statement that the Plan “has [had] regard to the fundamental rights and freedom guaranteed under the ECHR and complies with the Human Rights Act”. Whilst more explanation might have been useful, no evidence has been put forward to demonstrate that this is not the case and the Plan would appear to have neutral or positive impacts on groups with protected characteristics. In this respect then the Plan does not breach, and is otherwise compatible with, this obligation.

Other EU obligations

- 7.36 No Habitats Regulations Assessment screening statement has been produced. Neither the Neighbourhood Plan documentation nor representations indicate that such an assessment is necessary. There are no European sites within Mid Sussex District. Ashdown Forest in the adjacent Wealden District is identified as a Special Protection Area and Special Area of Conservation. A ‘zone of influence’ of 7km around this site does not fall within the neighbourhood plan area. Therefore the Plan does not breach, and is otherwise compatible with, EU obligations in this respect.

7.37 I am not aware of any other European Directives which apply to this particular neighbourhood plan and no representations at submission plan stage have drawn any others to my attention.

8.0 General comments on the Plan's presentation

8.1 I now make some general comments on the Plan. Modifications are highlighted in **bold text**.

8.2 It is useful to include a 'conformity reference', as the basic conditions statement refers to it, with each policy in the Plan. However, the conformity references appear in italics, namely in the same typeface as the policy itself. **It is recommended that the conformity references should be removed from italics** to make it clear that they do not form part of the policy itself.

8.3 In addition it is important that if this method is employed that the conformity references are correct. In many places this unfortunately is not the case. I have not sought to point out such discrepancies further within this report, but this is a matter to note.

8.4 It should also be noted that there are a number of consequential changes to the supporting text that will be needed as a result of the recommended modifications. Furthermore the Proposals Map will need some amendments to reflect the recommended modifications. I have not highlighted each and every one of these changes, but these are matters that need remedying in any future version of the Plan.

8.5 I consider it good practice that Appendix A of the Plan contains a list of documents collected and reviewed during the course of preparing the plan and that these are available on the Parish Council's website.

8.6 In the next section I consider the vision and objectives and the policies of the Plan against the basic conditions and closely follow the structure and headings in the Plan. Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

9.0 Detailed comments on the Neighbourhood Plan

Vision and Objectives

9.1 It is important in my view for the SPNP to have a strong vision. The Framework refers to the opportunity that neighbourhood planning gives for communities to develop a shared vision and to deliver the sustainable development they need.¹⁷ Such a vision is clearly articulated in this section. Sitting underneath the vision is a set of objectives and measures.

¹⁷ National Planning Policy Framework 2012 para 183

- 9.2 In principle the six objectives meet the basic conditions. I note Natural England support objective two. Some changes are however needed to the measures relating to each objective:
- In respect of objective two, **the measure should be modified to read “*The conservation of the landscape and scenic beauty of the AONB will be given great weight in determining applications for development.*”** to bring it in line with the Framework.
 - **The measure sitting underneath objective 3 should be modified by replacing the word “setting” with “significance”** to bring it in line with the Framework.
 - **The measure sitting with objective four has a small typographical error which should be corrected (replace “on” with “a”).**
 - **The objectives and measures should be reviewed in relation to other modifications elsewhere in the Plan which affect allocations and designations.**
- 9.3 The monitoring and review section is to be welcomed and represents a flexible approach to plan and policy making.

Planning Policies

- Policy 1 The Presumption in Favour of Sustainable Development**
- 9.4 This policy seeks to reflect the presumption in favour of sustainable development found in the Framework. **The reference to the local planning authority in the last paragraph should be removed**, as the Plan should not bind other parties to take action outside of its control. Although the point is made in representations that this policy should refer to the emerging District Plan, the reference to the development plan is appropriate.
- Policy 2 A Spatial Plan for the Parish**
- 9.5 The MSLP 2004 gives great weight to protecting and improving the urban and rural environment and the quality of life. It seeks to protect and strongly resists development in the countryside particularly in AONBs. New residential development is directed to within or adjacent to existing built-up areas and in particular the three towns of Burgess Hill, East Grinstead and Haywards Heath. It explains there are some limited development opportunities in villages where there is sufficient infrastructure to accommodate development or where the benefits of development are important to the village.¹⁸ Within AONBs development is not permitted unless it is essential for local social and/or economic

¹⁸ MSLP 2004 page 9

needs.¹⁹

- 9.6 The Neighbourhood Plan recognises that much of the neighbourhood area is located within the High Weald Area of Outstanding Natural Beauty (AONB) and that each of the four villages of Handcross, Pease Pottage, Warninglid and Slaugham have distinctive identities. At the hearing the Parish Council confirmed that the principles of sustainable development had been given great importance and the High Weald AONB Unit had confirmed support for key worker housing, sustainable villages, high quality design and a mix of people within rural communities.
- 9.7 Policy 2 recognises the constraints of a countryside location, but the need for village communities to be resilient. Some representations have raised concern about development being steered to Handcross and Pease Pottage and the discouragement of development to Warninglid and Slaugham. However, the policy does not impose a blanket ban on development in locations other than Handcross and Pease Pottage. The policy therefore provides a useful strategy for development which is in line with the general thrust of the Framework, the strategy outlined in the MSLP 2004 and will help to achieve sustainable development.
- 9.8 Southern Water, the statutory undertaker for sewerage in most of the neighbourhood plan area, objects to this policy as it “could create barriers...to deliver essential infrastructure on time...” and “new sewerage infrastructure need[s] to be located in close proximity to the existing sewerage network...”.²⁰ Helpfully a new bullet point is suggested to address the concern. It seems unlikely that the policy is intended to resist needed infrastructure development and therefore **it is recommended that a third criterion is added to the policy which reads “iii. *Proposals by service providers for the delivery of necessary utility infrastructure will be supported where no reasonable alternative location is available.*”** as this will give the comfort sought and bring the policy in line with the Framework which recognises that the lack of infrastructure can often present a barrier to building a strong, competitive economy and therefore the achievement of sustainable development.
- 9.9 The supporting text to Policy 2 refers to “both options” and this makes little sense to a reader of this version of the neighbourhood plan and should be adjusted accordingly.

¹⁹ MSLP 2004 Policy C4

²⁰ Southern Water Letter 24 July 2013

Housing Policies

Policy 3 Housing Supply in the Parish

- 9.10 The first part of Policy 3 allocates land for the development “of a total of up to 130 homes” in the plan period namely 2013 – 2031. Given that it is widely recognised that there is a need to boost housing supply and as planning should be plan-led, it is welcome that the Plan accepts new growth. However, given the rural nature of the Parish and in particular its location within the AONB and the lack of an up-to-date district level local plan and the stage the emerging local plan is at, it would be useful for the Parish to make an objective assessment of the level of residential development it needs as part of the neighbourhood planning process.
- 9.11 The supporting text explains that the 130 figure is a target and, allowing for windfall sites, accords with the “strategic objective” (measure) of “achieving at least 130 new homes in total”. It explains that the Parish would grow by some 40 homes in proportion to its current population and that the 130 figure takes account of the emerging district level plan, the availability of sites in the Mid Sussex Housing Supply Document (MSHSD) (2013) and the Mid Sussex Local Housing Assessment (MSLHA) (updated in October 2011). In spite of this it is not clear to me how the figure of 130 has been derived. This is a point made by a number of representations in addition to a concern that it is not based on the most available and up to date information. Given the sensitivity of the local area in relation to the High Weald AONB it is particularly necessary to justify a figure so that this can be weighed up in the overall balance.
- 9.12 With every good intention, the Parish carried out a housing needs survey (October 2010) sent to every household in the Parish to help it gather evidence. This identified 42 households in need although it is not clear to me what type of need this represents. Housing waiting lists were also highlighted with numbers that again do not seem to equate to the 130 target set.
- 9.13 Whilst in principle it is useful for a policy of this type to set out a target it is not clear whether the figure is a minimum or maximum and there seems to be some confusion in the plan about this or at least some inconsistency. This is a point made in representations. Given that the strategic objective of the plan refers to “at least 130”, I assume it to be a minimum. If it were to be a maximum this would not allow for the flexibility the Framework seeks in responding to changing conditions.
- 9.14 Moving on then to the next part of Policy 3, it supports housing development on i. land within the built-up area boundaries of Handcross and Pease Pottage where there is “sufficient control over land to deliver affordable homes to meet local needs of a proportion of at least 50% and to deliver custom build homes to meet local demand” and ii. on previously-developed sites within the existing built-up area boundaries of Handcross and Pease Pottage where “the proportion of affordable

homes will be at least 30% of the total number of homes, unless it can be demonstrated that a lower proportion is required to enable a viable scheme”.

- 9.15 This part of the policy seems to relate more to the provision of affordable housing rather than the principle of development within the built-up area boundaries. In essence both the 30% and 50% requirement are more stringent than the relevant policy in MSLP Policy H4 as that policy explains that a reasonable proportion is generally 30%, but this is required on sites over 0.5 hectares in size or where 15 or more dwellings are proposed. Whilst it is, in my view, appropriate for a neighbourhood plan to set a higher requirement than the development plan and the policy does recognise that this requirement may result in an unviable scheme, a concern raised in representations, and therefore does offer some flexibility, this policy stance must be justified by evidence of such a need at the local level. There is no evidence before me to do this.
- 9.16 This part of the policy also “allocates” sites. Usually this is a term when one would then expect to see specific sites allocated and shown on a proposals map. My interpretation of this part of the policy is primarily about seeking affordable housing and so **consideration should be given to deleting the words “Sites will be allocated for” and consequential changes made to the wording** so that the policy applies to all sites which accord with criteria i. and ii. Alternatively if the entire policy relates to the site allocations made in the neighbourhood plan which are subject to Policy 4, this should be made clear.
- 9.17 The third part of Policy 3 refers to the type of housing. In principle it is to be welcomed that consideration has been given to housing type as part of the development of the neighbourhood plan. The policy sets out the type of housing in relation to “allocated” sites (see comments above) and their distance from the village.
- 9.18 As it is currently worded I find Policy 3 to be confusing. The supporting text also refers to a number of issues which are not reflected in the policy itself. Given the lack of adequate evidence for the overall housing figure, the requirements for affordable housing or housing types, this policy would not meet the basic conditions. If it is intended to only relate to the three site allocations proposed in the next policy, these requirements are not reflected in those allocations or in the CRtBO which seeks to implement one of the allocations. **It is recommended that the policy and its supporting text be amended** to address the concerns expressed and is considered in conjunction with the other policies of the Plan that relate to the site allocations. It is not possible for me to suggest an amended form of words, as the evidence needed to do this is not before me.

Policy 4 Housing Site Allocations

- 9.19 This policy allocates three sites for development:
1. 76 dwellings and commercial development on land at St. Martin Close/Coos Lane, Handcross
 2. up to 24 dwellings on land off High Street, Handcross
 3. up to 30 dwellings on land at Old Brighton Road South, Pease Pottage.
- 9.20 The supporting text indicates that the sites have been selected from those assessed in the MSHSD or have been suggested by the community and supported by the landowner. All are within the High Weald AONB where both the Framework and the MSLP 2004 give a high level of protection.²¹ Given that the majority of the Parish falls within an AONB, it is paramount that proper and full assessment is given to any site allocations. Whilst all or most sites may well fall within the AONB in terms of being deliverable and available, it is critical that these sites are assessed so that their respective impacts can be considered. It may well be the case that some sites falling within the AONB are, for example, more or less sensitive than others and it is this assessment based on the definitions in national policy as to those sites that should be regarded as deliverable²² and developable²³ together with the requirements of MSLP 2004 Policy C4 which should be vigorously tested.
- 9.21 The supporting text explains that Site 1, St. Martin Close/Coos Lane is part owned by the Parish Council and would be implemented through a CRtBO with a Community Land Trust procuring the scheme on completion. It refers to Policy H4 of the MSLP 2004 which I believe should be a reference to Policy H5 of the MSLP 2004 as it is this policy that deals with rural 'exception' housing. There seems to be some confusion here. On one hand the plan states this site is subject to Policy 7 of the Neighbourhood Plan which seeks to alter the built-up area boundary of Handcross to include this site within it and on the other it states the site remains in the AONB, but is allocated on the basis that Policy 3 has provided the justification for development within the AONB which I do not agree that it has.
- 9.22 I have found in relation to Policy 3 that insufficient justification has been put forward for the housing figure of 130 new homes of which this site forms the bulk of that figure. Policy H5 of the MSLP 2004 permits development in AONBs in exceptional circumstances where there is no other suitable site to meet local need.
- 9.23 This site could therefore be considered for affordable housing under Policy H5 of the MSLP 2004. Since the publication of that policy, the more up-to-date Framework also allows for affordable housing on small

²¹ MSLP 2004 Policy C4 and National Planning Policy Framework 2012 para 115

²² National Planning Policy Framework 2012 para 47

²³ *Ibid* para 47

sites where sites would not normally be used for housing and allows for small numbers of market homes where essential to enable the delivery of affordable units without grant funding.²⁴ Therefore including this site within the built-up area boundary needs careful justification alongside an assessment of whether any other sites perform equally well or better in terms of sustainability. This is particularly the case given that the Framework indicates development should be restricted in AONBs.²⁵

- 9.24 This then links back to the necessity of ensuring that a) housing need has been assessed thoroughly, b) all appropriate sites have been considered and compared and c) the strategic environmental assessment process has been robust.
- 9.25 Some representations put forward other sites for consideration including sites in Warninglid and Pease Pottage. Representations express concern about the robustness of the site selection process and the apparent 'driver' of ownership and control as well as the lack of opportunity to comment on all potential options. In itself this 'driver' may be acceptable to ensure that a particular development occurs for example. However, given that much of the Plan area is within an AONB, it is important that all potential sites are assessed before selection/allocation takes place. Whilst the District level Strategic Housing Land Availability Assessment (SHLAA) has been used to assist with this process, overall it is not apparent that the selection of sites has been done in a sufficiently open and transparent or robust way.
- 9.26 In relation to the detail of Site 1, Southern Water²⁶ indicates that the capacity at Handcross Wastewater Treatment Works is limited and that the timing and delivery of the allocations in Handcross should recognise this. An addition to the text of Policy 4 is suggested; "occupation of the development will not be permitted until adequate wastewater treatment capacity is available to serve the proposed development in order to protect the environment." It is my view that this issue does need addressing, but that it is a matter of phasing of development rather than occupation as it would be difficult to envisage a situation where homes could be built, but not occupied and as some of the homes are proposed to be custom built this would be hard to control. Therefore **it is recommended that further work is carried out with Southern Water and that the delivery of the site allocations is adjusted accordingly to take account of the necessary wastewater treatment infrastructure** in line with the Framework which seeks to ensure development conserves and enhances the natural environment.
- 9.27 Representations also express concern about the effect of this allocation on road capacity, its location relative to the centre of the village and to

²⁴ *Ibid* para 54 and glossary

²⁵ *Ibid* paras 14, 115

²⁶ Southern Water Letter 24 July 2013

services and facilities such as schools. Representations also point out that there seems to be no indication from the owner of the Coos Lane parcel of land as to whether this site would be available.

- 9.28 In relation to Site 2, at the hearing Mr. Shepherd²⁷ confirmed that the site is available and deliverable in the plan period, but felt that 24 dwellings was too aspirational throwing further doubt on the target figure and the deliverability of the sites selected.
- 9.29 Mr. and Mrs. Young²⁸, owners of Site 3 object to its inclusion in this Policy. This was confirmed at the hearing by their representative, Mr. Day. As well as expressing concern about the loss of employment on this site, a concern shared by others, they had no record of being consulted about the allocation and indicated that there was no certainty that the site would be available. They do not support the allocation. I also share the concern about the loss of employment land, as this seems to go against the general thrust of the Framework²⁹ and MSLP 2004 Policy E2. Taking these two things together, **this allocation (iii) should be deleted from Policy 4.**
- 9.30 At the hearing I asked the Parish Council what the implications of deleting Site 3 from Policy 4 would be. Essentially Mr. Homer³⁰ indicated that the target of 130 homes would be reduced by the anticipated 30 dwellings envisaged for Site 3. This reinforced my view that the target in Policy 3 has not been robustly assessed. It was explained that it had been difficult to develop criteria that would allow an appropriate number of sites to come forward with what might be acceptable locally and gain support at a referendum.
- 9.31 Even though the Plan could be monitored and reviewed, it appears that the target figure is not derived from any robust evidence base and has not informed the process of site selection. Rather it seems that sites were identified and then the figures derived from their capacity with the onus on ownership and control of the sites to identify them in the first place. Whilst I understand that ownership and control is one way to ensure that affordable housing is delivered, it is not the only way this can be achieved. For instance affordable housing could have been developed through a rural exception site route. In any case rather than having a figure constrained by a preference for certain sites to come forward, the overall target should have been unconstrained in the first instance. Whilst this is a challenge at neighbourhood level as, for example household projections are difficult to translate to the very local level and I accept that any assessment should be proportionate, it is not clear what

²⁷ Mr. Robin Shepherd of Barton Willmore on behalf of the Hyde Estate and Hallam Land Management Ltd

²⁸ Mr. and Mrs. Young Representation 25 July 2013

²⁹ National Planning Policy Framework 2012 para 28

³⁰ Mr. Neil Homer of rCOH Ltd, consultant to the Parish Council

steps have been taken. It is for these reasons that I do not consider the target figure or the site allocations to be sufficiently robust.

- 9.32 On a more positive note, I note that the Environment Agency are pleased to see that the proposed allocations have been directed to areas at the lowest probability of flooding and are all located within Flood Zone 1.³¹
- 9.33 Overall Policies 3 and 4 have a number of shortcomings and do not pay adequate regard to national policy or advice. This leaves me with a great deal of uncertainty as to whether they have had sufficient regard to national policy, are in general conformity with the strategic policies of the development plan or will contribute to the achievement of sustainable development.

Policy 5 Windfall Sites

- 9.34 This policy supports proposals for residential development of six or less dwellings on previously-developed housing sites within the built-up boundaries of Handcross, Pease Pottage and Warninglid.
- 9.35 The definition of windfall sites in the Framework should be used to ensure consistency with national policy. The Framework's definition indicates that such sites are normally previously-developed and makes no reference to housing sites. Policy 5 as it is currently worded therefore seems to be more restrictive than national policy.
- 9.36 Given that little justification is given for restricting the definition in this local context or the redevelopment to six or fewer units or for restricting these sites to (only) those located within the built-up area boundaries of Handcross, Pease Pottage or Warninglid, this policy as currently worded represents a departure from national policy.
- 9.37 **It is therefore recommended that the policy be modified to read "The Neighbourhood Development Plan will support proposals for housing development on previously-developed sites."** Subject to this modification the policy would then help to achieve sustainable development and reflect the thrust of national policy.

Policy 6 Slaugham Manor

- 9.38 This policy addresses the future use of land and buildings at Slaugham Manor. Given that this site is an important one on the edge of Slaugham and includes a heritage asset, this is a good example of a positive planning strategy although more explanation of the significance of Slaugham Manor and for the selected uses could usefully be given.
- 9.39 The supporting text to the policy cross references the site to Policy 18 which refers to assets of community value. My findings on Policy 18 should be noted in relation to the supporting text and it should be

³¹ Environment Agency Letter 22 July 2013

adjusted accordingly.

- 9.40 Consideration should also be given to whether this policy sits under the section heading of 'housing policies' given its nature.

Environment Policies

Policy 7 Built-up Area Boundary at Handcross

- 9.41 This policy adjusts the built-up area boundary of Handcross to accommodate the St. Martin Close/Coos Lane site allocation.
- 9.42 In principle the amendment of built-up areas boundaries is an appropriate matter for neighbourhood plans to consider. However, as I have found that the policy allocating sites (Policy 4) to which this policy relates does not meet the basic conditions, it follows that this policy cannot either. **It is recommended that Policy 7 be deleted in its entirety.**

Policy 8 St. Martin Park

- 9.43 This policy makes provision for a new public open space adjoining an existing play area off West Park Road and Coos Lane as part of the St Martins Close/ Coos Lane site allocation. The policy sets out four criteria including the expectations and timing of the proposal. In my view the first criterion regarding 'features to benefit the residents' could be regarded as being rather subjective and it would as a result be potentially difficult to fulfill. On the other hand it leaves the precise nature of any features to future negotiation. The policy also sets a high bar in relation to implementation. The justification for the policy is clear and in itself accords with the achievement of sustainable development and reflects the thrust of national policy. I note Natural England welcomes the inclusion of criterion iii. for biodiversity gain.
- 9.44 However, it is also clearly related to a proposed site allocation subject to Policy 4 which I have found does not meet the basic conditions. As a result **it is recommended that Policy 8 be deleted in its entirety.**

Policy 9 Pease Pottage Village Green

- 9.45 This policy makes provision for a new public open space at the junction of Horsham Road and Old Brighton Road South as part of the Old Brighton Road South site allocation. The policy requires 'features for the benefit of all the community' which is subjective and would be difficult to enforce because of the lack of precision. Furthermore the policy states that any proposals should be aligned with a traffic management scheme subject to Policy 19. My findings on Policy 19 should be noted. In brief the requirement for a traffic management scheme would be dependent on the action of agencies outside the planning sphere and therefore such a proposal, whilst laudable, falls outside the remit of a neighbourhood plan policy which must relate to the development and use of land. I note that Natural England supports this policy.

9.46 At the hearing I asked about the implications of this policy if the Pease Pottage site allocation was not available or developable. Mr. Homer³² confirmed that it would be difficult to provide the village green without the housing allocation.

9.47 Given that this site is not available for redevelopment and the provision of the open space is regarded as an integral part of that redevelopment and therefore could not be delivered in line with the Framework which requires plans to be deliverable, **it is recommended that Policy 9 is deleted in its entirety.**

Policy 10 Local Green Space

9.48 This policy designates a Local Green Space on land forming and adjoining the Handcross Recreation Ground. It makes it clear that development that is not ancillary to the use of land for public recreational purposes will be resisted.

9.49 This policy embraces a new opportunity in the Framework which enables local communities to protect green areas of particular importance to them and to designate them Local Green Spaces. The designation offers a significant level of protection as it rules out new development other than in very special circumstances and managing development within Local Green Spaces is consistent with policy for Green Belts.

9.50 The designation should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. The Framework makes it clear that such a designation will not be appropriate for most green areas or open spaces. It should only be used when the green space is in reasonably close proximity to the community it serves; where it is demonstrably special to the local community and holds a particular local significance and where the green area concerned is local in character and is not an extensive tract of land.

9.51 Therefore this policy requires a robust justification. The supporting text explains that the community regards this land as special because of its landscape beauty and tranquility, its role as a 'buffer' for the village from the A23 and in helping to define the northern edge of Handcross village, its historic significance as part of the Hyde Estate and its recreational value for walking and other sporting events.

9.52 Given this background together with a representation objecting to the designation, this was a policy that I sought to explore in more detail during the hearing session. I was also made aware that the site has been, and is currently, subject to various planning applications for development.

³² Mr. Homer of rCOH Ltd representing the Parish Council

- 9.53 Mr. Shepherd explained at the hearing that part of the proposed Local Green Space land is not publicly accessible and in his view there is limited visibility to it and that it has no landscape beauty. The latter two points I consider to be largely matters of judgment. However, whilst there seems to be no particular need for such areas to be publicly accessible and the designation itself would not confer any such rights, this aspect is important to this particular designation as part of the justification given relates to the recreational use of site.
- 9.54 Whilst the supporting text to the policy lists all of the examples given in the Framework, the test in the Framework is 'demonstrably special'. There is little evidence in the supporting text to demonstrate why this land is special and holds a particular local significance. This was further confirmed by the response to my question on this at the hearing when I was told the reason for the designation was to prevent development on the site. The overall thrust of the opportunity of neighbourhood planning is to plan positively to support local development rather than to delay or prevent it.
- 9.55 As a result insufficient justification has been given for the designation of this site as a Local Green Space and therefore this policy does not accord with the Framework and **it is recommended that Policy 10 be deleted in its entirety.**

Enterprise Policies

Policy 11 Wyevale Garden Centre

- 9.56 This policy supports the continuing use of the Wyevale Garden Centre as a going concern, but signals alternative acceptable uses should this use cease. I note that the owners of the site have confirmed via a representation that the clarity provided by Policy 11 is welcomed. The policy is clear and unambiguous and seeks to protect land in business and employment use. This aim accords with the achievement of sustainable development and meets the basic conditions.
- 9.57 The policy also refers to the Old Brighton Road South, Pease Pottage site to enable the implementation of Policy 4. Given that this site is not available for redevelopment purposes, and therefore does not accord with the provisions of the Framework **it is recommended that the reference to the Old Brighton Road South, Pease Pottage site in the policy should be deleted.**
- 9.58 In addition the remainder of the policy resists the loss of any other land currently in business or other employment use in the parish. Whilst this may be a laudable aim in line with supporting and promoting employment use in rural areas and helping to make rural communities more self sufficient in line with the strategic aims of the MSDC LP 2004 which seeks to retain land for business purposes, this is hidden away in this policy which is titled very specifically "Wyevale Garden Centre".

There is no justification for this policy stance in the supporting text. Therefore as it stands this part of the policy is not clear. **It is recommended that the sentence “the loss of any other land currently in business or other employment use in the parish will be resisted” is deleted from this policy and consideration, together with a full justification, is given to convert this aim into a new and separate policy.**

Policy 12 Superfast Broadband

- 9.59 The Framework³³ supports high quality communications infrastructure provision and states that the development of high speed broadband technology and other communications networks play a vital role in enhancing the provision of local community facilities and services. Support for broadband can also reduce the need to travel and supports the achievement of sustainable development. This policy is clearly worded and supports the achievement of sustainable development by encouraging superfast broadband in line with the Framework. Attention should be given to the reference to Policy 21 in the supporting text.

Retail Policies

Policy 13 Handcross Village Centre

- 9.60 This policy designates a village centre frontage along High Street, Handcross. The policy then has two criteria; one protecting existing Use Class A1 and A4 uses from changes of use, the second encouraging proposals from the local highways authority to manage traffic, improve the pedestrian environment and create additional parking spaces. The policy then refers to working with local landowners to create additional car parking and encourages the participation in an appropriate retail organisation to coordinate and market the village centre.
- 9.61 Taking these issues in turn, the designation of a village centre frontage is helpful and consistent with the promotion of retaining and developing local services and community facilities in villages in the Framework.³⁴ In addition it sets out a clear steer for changes of use applications in the designated frontage in line with Policy S7 of the MSLP 2004 and extends this to Use Class A4 uses.
- 9.62 However, this part of the policy makes reference to those uses “adjoining the village centre”. This may give rise to some ambiguity as to which sites adjoin the frontage and therefore in the interests of clarity and to add certainty to the policy and its implementation **it is recommended that the sites be identified on the proposals map along with the village centre frontage.**

³³ National Planning Policy Framework (2012) paras 29, 42, 43

³⁴ *Ibid* para 28

- 9.63 However, whilst it is appropriate for a neighbourhood plan to contain community aspirations for traffic management schemes and additional car parking facilities, these are not aspirations which can be achieved through a policy such as this. In addition whilst the neighbourhood plan can support and encourage participation in an appropriate organisation this is not a land use or development matter.
- 9.64 Therefore it is necessary to amend the policy to bring it in line with the Localism Act 2011 and the Neighbourhood Planning (General) Regulations 2012 and **it is recommended that criterion ii. and the paragraph beginning “The Parish Council will continue to work with local landowners..” are deleted from the policy and placed in a different section of the Plan or are included as an appendix to the Plan.** Consequential amendments to the supporting text will also be necessary. Attention should be given to the reference to Policy 21 in the supporting text.

Policy 14 Pease Pottage Village Centre

- 9.65 Like Policy 9 Pease Pottage Village Green, this policy relates to the site allocation for Old Brighton Road South which the examination has established is not available for redevelopment. The proposed village centre frontage designation together with the proposed uses and public open space is strongly linked to the site allocation and is not in my view severable from it or deliverable without it and therefore this policy would not be in line with the general thrust of the Framework.
- 9.66 There is some unnecessary repetition in criterion ii. which effectively duplicates the aims of Policy 9.
- 9.67 The third criterion refers to the definition of the Black Swan Public House as an asset of community value cross referencing this to Policy 18. My comments on Policy 18 should be noted. However, whilst the Black Swan Public House can be identified as a possible asset of community value in a neighbourhood plan, it cannot be delivered as part of it. Given this to retain this criterion in the policy would not accord with the basic conditions.
- 9.68 Therefore **it is recommended that Policy 14 be deleted in its entirety.**

Community Policies

Policy 15 Handcross Community Centre

- 9.69 Policy 15 proposes the development of a new community centre and associated facilities on land adjoining the Handcross Recreation Ground. This criteria-based policy is clear in its intent and contains a number of requirements before such a new facility can be provided.
- 9.70 There are a number of different facilities and requirements referred to in the policy itself and supporting text which do not tie up. For example the

text refers to an office for the Parish Council and facilities for home-based businesses, but these latter two facilities are not specifically mentioned in the policy. Given that the policy will take precedence over the supporting text in any dispute about what is meant, **it is recommended that the policy be revised to include any elements mentioned in the supporting text if they are a key part of the community's intentions for this proposal.**

- 9.71 The first criterion restricts the implementation of this policy before any redevelopment of the existing facilities which are proposed to be relocated to this site. This may be unduly restrictive and potentially unviable.
- 9.72 The fourth criterion refers to a Community Right to Build Order which is separate from the Neighbourhood Plan. It may be the case that as the community centre can only be provided through a CRtBO as the policy and criterion iv. is currently worded, that this may be unduly restrictive and lack flexibility.
- 9.73 On these two points I have carefully considered whether any modifications should be made to the policy. I have reached the conclusion that as the site falls outside the built-up area boundary of Handcross and is located within an AONB, which has the highest status of protection in relation to landscape and scenic beauty, the policy requires an appropriately strong justification. It seems to me that the proposal supports the economic and social wellbeing of the community and as a result contributes to sustainable development. On balance the mechanism of the CRtBO means that the great weight given in the Framework to conserving landscape and scenic beauty can be given.³⁵ Therefore no further modifications are recommended.

Policy 16 Pease Pottage Community Centre

- 9.74 This policy supports the development of a community centre at Finches Field. Policy 15 supported the development of a community centre at Handcross and the supporting text indicated this would serve the whole Parish. Whilst this on the face of it might seem an inconsistency, the supporting text to Policy 15 makes it clear that this would be complementary to the facility at Handcross and elsewhere.
- 9.75 The policy reflects Policy PP5 of the MSLP 2004 which allocated the site for an extension to the existing playing fields and associated facilities, but differs from it in that it safeguards the land for a community centre.
- 9.76 This policy is in line with the Framework which seeks to promote healthy communities, promote opportunities for meetings between members of the community and is an example of planning positively for the provision

³⁵ National Planning Policy Framework (2012) para 115

and use of shared space enhancing the sustainability of communities.³⁶

Policy 17 The Wyshe Recreation Ground

- 9.77 This policy seeks improvements to the play area facilities at The Wyshe Recreation Ground. The policy is non-specific and is aspirational in nature. It falls within the category of a project that the community wishes to achieve. Therefore **it is recommended this proposal should be deleted as from the list of planning policies, but be moved to a different section or appendix of the Plan.**

Policy 18 Assets of Community Value

- 9.78 This policy lists a number of buildings and land and uses to be put forward and considered by Mid Sussex District Council as assets of community value.
- 9.79 Assets of community value can be land or buildings. If an asset is listed by the District Council if that asset comes up for sale, the community has the time to develop a bid and raise the money to bid to buy the asset when it comes on the open market. The idea behind this is to help local communities keep valued buildings or amenities that play a significant part in local life. However it should be noted that there is no community right to buy the asset; only to bid for it. It may well be that the community bids unsuccessfully.
- 9.80 A neighbourhood plan cannot designate assets of community value as the determining authority is Mid Sussex District Council who has set up a process for this.
- 9.81 Furthermore this part of the approach does not comprise a land use or development planning policy and therefore this part of the policy does not meet the basic conditions.
- 9.82 However, I see no reason why a neighbourhood plan should not list the buildings or land that the community would like to see considered for such a designation. This policy therefore seeks through the neighbourhood plan process the community's agreement to apply for the specified buildings and land to be designated as assets of community value. It would then be for the Parish Council to prepare a nomination for each of the suggested assets for the local planning authority to determine through its established procedure.
- 9.83 Given that part of the policy is aspirational and does not deal with land use or development, **it is recommended that this part of the policy be moved to a different section or appendix of the Plan.**

³⁶ National Planning Policy Framework (2012) paras 69, 70

- 9.84 I note that some of the proposed assets are shown on the Proposals Map whilst others are not. In the interests of consistency and completeness **it is also recommended that either all the proposed assets are shown on the Proposals Map or on a separate map or all be removed from any map.**
- 9.85 **The second part of the policy** then deals with any proposals which would result in the loss of, or significant harm to, an asset of community value subject to economic viability once designated. This is an aim which is in line with the basic conditions, but affords some flexibility and therefore **could be retained as a policy in its own right.**

Transport Policies

Policy 19 Traffic Management

- 9.86 Policy 19 specifies four locations for traffic management measures. Some are to be carried out in conjunction with other policies of the Plan. Whilst the policy lays down a marker to ensure that the community's desire to implement traffic management measures is not lost, this policy is aspirational and does not deal with land use or development and moreover relies on the actions of other agencies. **It is recommended that the policy is deleted from the list of planning policies, but be moved to a different section or appendix of the Plan.**

Section 5 Delivery Principles & Policies

- 9.87 This section of the Plan explains how the SPNP will be implemented and contains a number of policies. It recognises that in allocating sites and putting forward proposals, viability is an important factor.
- 9.88 It recognises the respective roles of Mid Sussex District Council and the Parish Council in the determination of planning applications and the role and status of the SPNP.
- 9.89 Crucially it recognises the need to monitor progress and this is to be applauded. This will help to ensure that the neighbourhood plan remains relevant and deliverable and that early action can be taken if things go awry or circumstances change.
- 9.90 It sets out future work for the Parish Council in the form of a Design Statement and Conservation Management Plan. Admirably the neighbourhood planning process will not stop with the production of the Plan, but continue with ongoing work and the involvement of the local community in shaping planning for their area.

Policy 20 Community Right to Build Orders

- 9.91 This policy details two community right to build orders (CRtBO) which have been submitted for examination at the same time as the Neighbourhood Plan.

- 9.92 Community right to build orders are a particular type of neighbourhood development order which allows local people to propose a particular development in their area and obtain planning permission for it. One advantage of a community right to build order is that it can ensure that affordable housing remains so in perpetuity. Any revenue directly generated through the order is also retained by the community.
- 9.93 Whilst community right to build orders follow a separate process and do not need to be part of a neighbourhood plan, it is useful that these two orders have been developed as an integral part of the neighbourhood plan process as they are directly related to two policies in the Plan namely Policies 4 and 15 and are seen as a way of expediting the implementation of these policies. As the Plan recognises this will help to give the local community confidence that the proposals can be delivered in the ways proposed in the Plan.
- 9.94 It is commendable that the Plan recognises that it is not sufficient to have policies and proposals, but that the policies and proposals must be delivered in order to make a difference to the local community and achieve its aspirations for the Parish. For example, a Community Land Trust is proposed as a mechanism to implement the St. Martin Close/Coos Lane proposal.

Policy 21 Infrastructure Projects

- 9.95 Policy 21 recognises that the proposals in the plan will have an impact on infrastructure provision. It seeks to use the Community Infrastructure Levy (CIL) and other sources of funding to deliver a priority list of identified projects which relate to other policies and proposals in the Plan.
- 9.96 Outlining infrastructure projects and listing them in order of priority gives a clear signal to developers and funders about what the community seeks. The supporting text explains the background and funding opportunities for each project and a table (Table B) outlines the capital costs of the projects recognising the collaborative approach needed.
- 9.97 These are however aspirations of the community and are unsuited to remain as a planning policy. **It is recommended that the policy be deleted as a planning policy, but moved to a different section or appendix of the Plan.** As some of the projects refer to policies which I have recommended changes to or deletions of, this policy should be reviewed to ensure it is consistent with other changes made to the Plan.
- 9.98 As a general point some of the projects have an * against them in both the policy and Table B. It is not clear to me what the asterisk signifies.

Policy 22 Section 106 'Planning Obligations'

- 9.99 This policy seeks to secure financial contributions through the planning obligation mechanism equivalent to the Community Infrastructure Levy

(CIL) charge.

- 9.100 Mid Sussex District Council published a draft CIL Charging Schedule in July 2013 and consulted on this in August 2013. Policy 22 provides for the 'interim' period before CIL may be adopted by the District Council. It provides that any development coming forward eligible for CIL, including that in the community right to build orders, will pay at least the equivalent amount of CIL as set out in the submitted charging schedule.
- 9.101 The supporting text makes reference to the draft charging schedule published by MSDC in March 2013 and by doing so in effect sets a charging levy of its own. This is because the passage of time means that a full draft was consulted on more recently by the District Council. It is not appropriate or fair to proposers of schemes in the Parish area to be charged what potentially may not be adopted at District Council level and is still subject to examination. To do so may inadvertently hamper development or render it economically unviable in the meantime. This would in any event, with the exception of the community right to build orders, be subject to negotiation by the District Council in determining planning applications. It is not an appropriate policy for inclusion within a neighbourhood plan as it does not relate to development or the use of land. This policy therefore does not meet the basic conditions. **It is recommended that this policy be deleted in its entirety.**

10.0 Conclusion

- 10.1 The examination of the SPNP has found that the Strategic Environmental Assessment carried out has not met the requirements of the relevant EU Obligation. As such the SPNP does not meet this basic condition. Given the nature of the incompatibility with the EU Obligation it has not been possible to recommend modifications that would allow me to recommend that the Plan can proceed to a referendum.
- 10.2 I have also found that whilst the Neighbourhood Plan recognises the need for new housing development, the target it sets for the Plan period is not based on sufficiently robust evidence. This in turn has resulted in three site allocations for residential development which fall within the High Weald Area of Outstanding Natural Beauty that are not necessarily deliverable and have not been sufficiently justified given the great weight the National Planning Policy Framework attaches to the protection of landscape and scenic beauty. Given the District Plan context and as much of the Parish falls within the AONB, a robust assessment of need and of suitable and available sites was required to ensure that the policies and proposals in the Plan would contribute to the achievement of sustainable development, have regard to national policy and guidance and generally conform to the strategic policies of the development plan.
- 10.3 Whilst the initiative of the Parish Council is to be applauded in taking on the mantle of submitting the first Neighbourhood Plan in Mid Sussex for

examination, and there is much to commend in the Plan, it is with regret I have no alternative but to reach the conclusion that the Plan should not proceed to a referendum.

- 10.4 In order to be helpful, I have set out modifications so that the Parish Council will be, I hope, in a better position to decide on the future of the Plan.

11.0 Formal recommendation

- 11.1 I recommend to Mid Sussex District Council that the Slaugham Parish Neighbourhood Plan should not proceed to a referendum.

Ann Skippers
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17 January 2014