

Bolney Neighbourhood Development Plan 2015-2031

Independent Examiner's Report

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Summary

I have been appointed as the independent examiner of the Bolney Neighbourhood Development Plan. Bolney village lies some 13 miles north of Brighton and some 16 miles south of Gatwick Airport. There are two Conservation Areas which show the importance of the linear form of the village, its heritage and its unusual narrow sunken lanes and surrounding rural character.

The Plan is presented and written well and seeks to take a positive approach to sustainable development whilst respecting the village's distinctive character. It has been developed over a long period of time in consultation with the community and a strong sense of community shines through.

Further to consideration of the policies in the Plan I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear and consistent.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore delighted to recommend to Mid Sussex District Council that the Bolney Neighbourhood Development Plan go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
19 June 2016



1.0 Introduction

This is the report of the independent examiner into the Bolney Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides an opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Mid Sussex District Council (MSDC) with the agreement of Bolney Parish Council to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and have examined a number of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- 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 and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a 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).

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

The basic conditions² 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
- 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.

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 site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects, and
- 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).

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

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

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.

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

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

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.

3.0 The examination process

It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan. I am not examining the Plan against the tests of soundness used for Local Plans,⁶ but rather whether the submitted Plan meets the basic conditions, Convention rights and the other statutory requirements. I have set out this role in some detail in the previous section.

The general rule of thumb is that the examination will take the form of written representations.⁷ 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 an issue or to ensure a person has a fair chance to put a case. After consideration of the documentation and all the representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

Submission (Regulation 16) consultation was carried out between 29 October and 10 December 2015. This attracted a number of representations which I have carefully considered and taken into account in preparing my report. On occasion I refer to a specific representation, but I have not felt it necessary to comment on each of them. In accordance with the statutory requirements I have focused on giving reasons for any recommendations I make.

During the course of the examination it was necessary to clarify two matters. I sent a note dated 9 April 2016 to MSDC regarding these matters; the first was a letter from GL Hearn dated 4 April 2016 which was received after the Regulation 16 consultation period had ended and the second was in relation to the latest position on the emerging Local Plan.

The GL Hearn correspondence drew my attention to changes to MSDC's housing strategy, a Court case, Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG and Richborough Estates v Cheshire East BC & SSCLG [2016] EWCA Civ 168, and national policy and guidance.

I then sent a second note to MSDC dated 29 April 2016 in relation to the representation and further correspondence received from GL Hearn in response to the letter sent by

⁶ NPPF para 182

⁷ Schedule 4B (9) of the Town and Country Planning Act 1990

MSDC. My note confirmed that I would take the original representation of 4 April 2016 from GL Hearn into account, but that in the interests of fairness to others making representations at Regulation 16 stage, there should be a period of additional consultation enabling others to put forward their views on the points raised by GL Hearn. This additional consultation period ended on 26 May 2016. This also attracted a further 26 representations which I have taken into account.

The correspondence between GL Hearn and MSDC and a summary of the representations made in the additional consultation period together with the update on the emerging Local Plan are available on MSDC's website. My notes to MSDC are appended to this report.

I undertook an unaccompanied site visit to the neighbourhood plan area on 22 March 2016.

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out above in section 2.0 of this report.

Qualifying body

Bolney Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This is also confirmed in the Basic Conditions Statement. This requirement is met.

Plan area

The Plan area is coterminous with Bolney Parish Council administrative boundary. Mid Sussex District Council approved the designation of the area on 9 July 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements.

Plan period

The front cover of the Plan indicates the time period for the Plan is 2015 to 2031. This is also confirmed within the Plan itself and the Basic Conditions Statement.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also confirmed in the Basic Conditions Statement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land.

Where I consider a policy or proposal to fall within this category, I have recommended it be clearly identifiable or moved to a separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.⁸

Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 Consultation

A Consultation Statement has been submitted and provides details of a vast array of engagement that has taken place since the initial decision to embark on a neighbourhood plan was taken in March 2013.

It is clear that careful thought was given to how to reach different groups of people within the community such as older people, younger people and commuters. As well as a survey to residents and businesses, it is apparent that by holding stalls at events such as the Village Day or by piggy backing onto other events, effort was made to engage as many people as possible. The use of a website, emails and facebook also supplemented the more traditional face to face and Parish magazine methods of engagement. The Consultation Statement⁹ includes a very useful timeline of the activity carried out.

What particularly strikes me is the amount of effort that has gone into ensuring that the community has received feedback on, for example, the residents' survey and specific meetings held to for example discuss the housing needs assessment and site selection process.

Pre-submission (Regulation 14) consultation was held between 14 May 2015 and 26 June 2015. As well as the more common direct email, copies of the draft Plan available in various locations around the Parish and website, four open sessions during this six week period were held to enable stakeholders to meet with members of the Plan team.

As I have already mentioned, submission (Regulation 16) consultation was carried out between 29 October and 10 December 2015. A total of 125 representations were received.

⁸ PPG para 004 ref id 41-004-20140306

⁹ Consultation Statement page 6

An additional period of consultation was held between 4 and 26 May 2016.

From the evidence presented to me, the Plan has evolved as a result of seeking, and taking into account, a wide range of views from the community and other bodies. I consider the consultation process has complied with the requirements of the Regulations.

6.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) 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

The NPPF 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

On 6 March 2014, the Government published a suite of planning guidance. This is an online resource known as Planning Practice Guidance (PPG). PPG contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF 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

PPG indicates that a policy should be clear and unambiguous¹³ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁴

¹⁰ NPPF paras 14, 16

¹¹ *Ibid* para 184

¹² *Ibid* para 17

¹³ PPG para 041 ref id 41-041-20140306

¹⁴ *Ibid*

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁵ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁶

The Basic Conditions Statement sets out how the Plan has responded to national policy and guidance.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole¹⁷ 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.¹⁸ The Basic Conditions Statement contains a short explanation of how the objectives of the Plan relate to sustainable development as defined in the NPPF and a Sustainability Appraisal has also been prepared.

General conformity with the strategic policies in the development plan

The development plan relevant to this examination consists of the saved policies of the Mid Sussex Local Plan adopted in 2004 (LP 2004).

Work has begun on a new District Plan. This was submitted to the Secretary of State in July 2013, but later withdrawn following an initial hearing in May 2014. Consultation on a revised Pre-Submission Draft District Plan took place between June and July 2015. MSDC advise me that on the 19 November 2015, Focused Amendments to the Pre-Submission Draft District Plan were published and consulted upon between 19 November 2015 and 15 January 2016. The timetable for the District Plan anticipates that it will be submitted for examination in Summer 2016.

Given that the LP 2004 was adopted in 2004 and prepared a considerable amount of time before current national policy in the form of the NPPF, the emerging District Plan potentially provides a more up to date context for the neighbourhood plan than the LP 2004.

The Basic Conditions Statement (dated October 2015) refers to the LP 2004 and the emerging Pre-Submission Draft District Plan of June 2015. Some representations indicate correctly that this is not the latest emerging document at MSDC level. However, it was the latest document available at the time the Plan was submitted and at some point a cut off for the preparation of the accompanying documents needs to be made. In any case this examination cannot consider the Plan against the emerging

¹⁵ PPG para 040 ref id 41-040-20160211

¹⁶ *Ibid*

¹⁷ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁸ *Ibid* para 7

District Plan policies as the relevant basic condition is the Plan's general conformity with the strategic policies of the development plan for the area i.e. the LP 2004. For this reason the Basic Conditions Statement could have been silent on the emerging District Plan planning context.

It is often contended that neighbourhood plans should not proceed or be adopted until there is an up to date adopted development plan on which the Plan can be based or tested against or that it should at least be assessed against or conform to the most recent emerging District Plan. Based on advice in PPG¹⁹ and a judgment handed down in a judicial review,²⁰ it is widely accepted that a neighbourhood plan can be developed before or at the same time as the production of a local plan.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

MSDC confirmed in June 2013 that a SEA would be required and encouraged the Parish Council to undertake a Sustainability Appraisal (SA). Although there is no legal requirement to undertake a SA it is recognised that this can be a useful way of demonstrating how the Plan contributes to the achievement of sustainable development.²¹

The SA incorporating SEA has been prepared. It is a well-written document that has been prepared with sufficient detail and which is proportionate and appropriate for the content and level of detail in the Plan. It meets the requirements of the Regulations.

PPG confirms that it is the local planning authority's responsibility to ensure that the SEA requirements have been met in order to progress the Plan when deciding whether the Plan should proceed to referendum and whether or not to make the Plan.²²

¹⁹ PPG para 009 ref id 41-009-20160211

²⁰ Gladman Developments Ltd v Aylesbury Vale District Council [2014] EWHC 4323 (Admin)

²¹ PPG para 072 ref id 41-072-20140306

²² *Ibid* para 031 ref id 11-031-20150209

A representation²³ points out that the SA at paragraph 4.6 indicates that the AONB boundary “comes right up to the settlement boundary”. The SA in this respect is not accurate as there is a gap. However, the gap is acknowledged in the assessment of site allocations in the SA and so I consider that the findings of the SA are not invalidated by the earlier error in the document.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identified whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²⁴ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

MSDC screened the pre-submission Plan and concluded that policies were unlikely to have a significant effect on any European sites.²⁵

I am not aware of any other European Directives which apply directly to this particular neighbourhood plan and in the absence of any substantive evidence to the contrary, I am satisfied that the Plan is compatible with EU obligations.

European Convention on Human Rights (ECHR)

The Basic Conditions Statement contains a short statement that the Plan has had regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in **bold italics**.

The Plan is clearly and attractively presented. It has a helpful contents page at the start of the Plan. Policies are readily distinguishable from the supporting text and appear in coloured boxes.

²³ Representation from GL Hearn dated 10 December 2015

²⁴ PPG para 047 ref id 11-047-20150209

²⁵ MSDC Habitats Regulations Assessment Screening Report dated 27 October 2015

Introduction

This section helpfully sets the scene for the Plan. It contains a number of subsections which contain a wealth of information including confirmation of, and a map showing, the Plan area and the time period of the Plan.

Page 6 of the Plan includes the statements that “individual developments should be of a scale appropriate to the village” and “large housing estates tacked onto the edge of Bolney are not considered appropriate”; I regard these statements to reflect the results of the questionnaire referred to in the same paragraph rather than as any statement of policy.

Section 1: About Bolney Today

This section contains interesting information about the Parish and the Plan’s five themes of environment and heritage, housing, assets, business and transport. It focuses on the main issues for each theme based on community engagement and research. It does so in an interesting and proportionate way and I found it helpful in understanding the key issues the Plan then goes onto address.

Section 2: The Vision and Objectives for Bolney

The succinct and clearly articulated vision states:

“Our vision is to deliver the sustainable development of Bolney parish, at a scale and form that preserves its distinctive rural character, landscape and community ethos.”

The vision is then underpinned by a variety of objectives relating to the environment, economy, community and healthy lifestyles. Whilst the table on page 21 of the Plan indicates how the Plan’s objectives align with the strategic objectives of MSDC’s emerging District Plan and these may be subject to change, all of the Plan’s objectives stand on their own two feet and in themselves are worded clearly, relate to the development and use of land and will help to achieve the future the community seeks for Bolney.

Section 3: Neighbourhood Plan Strategy

This section explains that a new built-up area is defined for Bolney. Development will be focused within that area, which includes site allocations proposed in the Plan and the countryside around it protected and enhanced. Alongside this there is support for the social and economic hubs.

Information about how the Plan relates to the emerging District Plan is generally helpful, but with the passage of time requires some updating.

- **Update references to the emerging District Plan context on pages 24 and 25 of the Plan as necessary**

Section 4: Policies for Bolney

Built-up Area

Policy BOLBB1 Built-up Area Boundary

This policy defines a built-up area and seeks to focus development within that boundary. The boundary has been drawn to include the three site allocations which are subject of later policies in the Plan. It recognises that outside the built-up area boundary some development can be supported in various circumstances.

The built-up area boundary is shown on the Proposals Map which is to be found near the end of the Plan. The Map seeks to show many different elements and as a result I found the boundary quite difficult to discern. Given that there needs to be clarity, I suggest that a larger scale map of the built-up area is included and inserted after the policy.

The policy is clearly worded and its approach reflects Bolney's location and the character of the surrounding countryside. However, I recommend a modification to make sure the policy takes account of (other) national and local policy in relation to development outside the built-up area boundary not only the other policies in the Plan.

The supporting text to the policy refers to the details of an emerging policy in a document that has not yet been adopted. This is inappropriate as the emerging policy may be subject to change.

- **Insert a larger scale map of the built-up area boundary and conveniently locate it for ease of reference alongside the policy**
- **Add "*or the proposal is in accordance with other planning policies applying to the Parish*" after "...elsewhere in the Neighbourhood Plan" in the first criterion in the part of the policy which deals with development outside the built-up area boundary**
- **Delete paragraph 4.3 on page 26 of the Plan**

Environment and Heritage

The supporting text explains the aims of the Plan's policies and gives further information and explanation about the landscape around the village. Paragraph 4.14 contains the statement that "locally there is no need to allocate land for development within this area" referring to the High Weald Area of Outstanding Natural Beauty (AONB). This statement contradicts Policy BOLE2 which I discuss below. As a result this statement should be deleted in the interests of the Plan's clarity, certainty and consistency.

- **Delete the sentence "Locally there is no need to allocate land for development within this area." from paragraph 4.14**

Policy BOLE1 Protect and Enhance Biodiversity

National policy is clear that the planning system should contribute to and enhance the natural and local environment, minimising impacts on biodiversity and providing net gains wherever possible.²⁶ The NPPF also makes it clear that a distinction should be made between the hierarchy of international, national and locally designated sites to ensure that protection is "commensurate" with their status.²⁷ Whilst the policy does not do this explicitly, it also would not prevent this approach from occurring.

The NPPF does however indicate that permission should be refused for development which results in the loss or deterioration of irreplaceable habitats such as ancient woodland unless the need for, and benefits of, the development in that location clearly outweigh the loss.²⁸ This more flexible stance should be reflected in the wording of the policy. Otherwise the policy is clearly worded and reflects Policies C5 and C6 of the LP 2004 and will help to achieve sustainable development.

- **Insert at the end of the second criterion of the policy the words: "*...and in the case of loss or deterioration of irreplaceable habitats permission will be refused unless the need for, and the benefits of, the development in that location clearly outweigh the loss; and...*"**

Policy BOLE2 Protect and Enhance the Countryside

This policy addresses development firstly outside the built up area boundary and secondly in the AONB. The first paragraph requires any development to demonstrate that it does not have a harmful impact on the landscape and that it meets the

²⁶ NPPF para 109

²⁷ *Ibid* para 113

²⁸ *Ibid* para 118

requirements of Policy BOLD1. Policy BOLD1 is a positively worded policy that grants permission subject to various design and other criteria.

The second paragraph of the policy refers to development within the AONB. The NPPF gives great weight to conserving landscape and scenic beauty in AONBs which, together with National Parks and the Broads, have the highest status of protection in relation to landscape and scenic beauty.²⁹

The policy imports the policy contained in paragraph 116 of the NPPF. However, this paragraph in the NPPF relates to “major developments” rather than the all encompassing “any development” found in the policy and so the policy goes beyond national policy. Coupled with this, paragraph 4.20 introduces a threshold for the policy which is not repeated in the policy and seems to me rather bizarre in its assumption that one or two dwellings or smaller commercial proposals will, by default, always have an acceptable impact on landscape. Whilst I understand the desire not to overburden applicants this seems to be rather an odd approach that does not take sufficient account of national policy and guidance or help to achieve sustainable development.

The policy also then refers to LP 2004 Policy C4. There is no need to cross-reference District level policies as they form part of the development plan and given it is likely a new District level plan will be adopted during the lifetime of this Plan, it would be preferable, in the interests of providing a practical framework, for this policy to stand on its own two feet.

Therefore in order to meet the basic conditions a number of modifications are needed:

- **Replace the word “any” in the second paragraph of the policy with “Major”**
- **Delete “(as required by national planning policy)” from the second paragraph of the policy**
- **Delete the words “...and that it fulfills the requirements of Mid Sussex District Plan Policy C4.” from the policy**
- **Delete paragraph 4.20 in its entirety**

Design

Policy BOLD1 Design of New Development and Conservation

This policy sets out the quality of development expected across the Plan area. In doing so it reflects the characteristics and local distinctiveness of Bolney, sets out clearly those issues which developers must take into account and address and encourages

²⁹ NPPF para 115

connectivity and accessibility. It is a well crafted and robust policy that takes account of national policy and guidance, LP Policy B1 and will help to achieve sustainable development. It meets the basic conditions and no modifications are recommended.

Housing

As the Plan recognises, the emerging District Plan potentially provides a more up to date context on housing provision than the LP 2004 which was prepared long before current national policy and guidance. However, the legislation requires that the Plan be in general conformity with the strategic policies of the development plan and this refers to the LP 2004 as the emerging District Plan does not yet have development plan status. PPG³⁰ confirms this and explains that the reasoning and evidence informing the Local Plan process is likely to be relevant. It particularly states that up to date housing needs evidence is relevant to whether a housing supply policy in a neighbourhood plan contributes to the achievement of sustainable development. It explains that neighbourhood plans do not have to address all types of development, but where they include policies on housing supply, these policies should take account of the latest and up to date evidence of housing need.³¹

The Plan refers to the revised Pre-Submission Draft District Plan consulted upon in June and July 2015. MSDC then published Focused Amendments to the Pre-Submission Draft District Plan on 19 November 2015. Consultation took place between 19 November 2015 and 15 January 2016. Amongst other things, these changes included an increase in the objectively assessed housing need figure from 656 to 695 dwellings per annum and an increase in housing provision figures from 650 to 800 new homes per year enabling the Council to make a contribution to meeting the housing needs of neighbouring authorities and the identification of a new strategic site for 600 houses at Pease Pottage. This site does not fall within the Parish area, but does fall with the High Weald AONB.

As many representations point out the Plan takes account of the June 2015 Pre-Submission Draft District Plan, but not the latest available information on housing need published in November 2015. In the face of considerable and continuing uncertainty of housing need at District level, a cut off date for the production of the Plan and the evidence it considered was made.

Given that national policy is clear that a neighbourhood plan can be brought forward before an up to date Local Plan is in place,³² and this has been confirmed by the Courts,³³ this situation is not unusual.

Based on the information before me there is evidence to show that the Plan took account of the emerging District Plan and the latest available evidence on housing need

³⁰ PPG para 009 ref id 41-009-20160211

³¹ *Ibid* para 040 ref id 41-040-20160211

³² PPG para 009 ref id 41-009-20160211

³³ Gladman Developments Ltd v Aylesbury Vale DC [2014] EWHC 4323 (Admin)

and that MSDC and the Parish Council have worked collaboratively on this as PPG advises.³⁴

I also recognise that the emerging District Plan places some emphasis on the delivery of some of the housing need through neighbourhood plans and MSDC has committed to producing a site allocations document by 2021 to ensure that a five year land supply can be maintained.

It is therefore a matter of timing, in my view, that has led to the situation we now find ourselves in; the Plan took account of the latest evidence in June 2015 and was submitted in October 2015. In November 2015, MSDC published the Focused Amendments during the Submission consultation period for this Plan. MSDC briefed the Parish Council confidentially in October on the proposed changes confirming that 800 dwellings per annum could still be achieved without the need to alter figures in neighbourhood plans. However, it would have been very difficult given the stage the Plan had reached and, in my view, nigh on impossible to expect the Parish Council to constantly review and revise its draft policies to take account of a constantly moving feast at District level.

Given that national policy is clear that a neighbourhood plan can be brought forward before an up to date Local Plan is in place,³⁵ as the Regulation 16 period of consultation had already begun, to abort this, one of the latter stages in the neighbourhood plan making process, and expect the Parish Council to review its housing supply policies would have been unreasonable. Indeed if such an approach was to be taken it would be likely to bring the entire plan-making system to an effective halt.

MSDC advise me that the Focused Amendments indicates that there is no need for the “current generation of neighbourhood plans to increase their housing numbers”.

There are also changes to PPG since the submission of the Plan which explain how planning applications should be determined where there is an emerging or made neighbourhood plan, but no five year supply of land.³⁶

Representations support the allocation of different or additional sites. In addition, a number of representations have referred to the proposed strategic development area at Pease Pottage. However, my role is limited to that set out earlier in this report.

GL Hearn also refer me to PPG on housing for older people.³⁷ PPG explains that local planning authorities should count housing for older people including Use Class D2 (residential institutions) against their housing requirement.

I have taken account of the advice in PPG that neighbourhood plans are not obliged to contain policies addressing all types of development, but where they do contain policies

³⁴ PPG para 009 ref id 41-009-20160211 and para 040 ref id 41-040-20160211

³⁵ *Ibid* para 009 ref id 41-009-20160211

³⁶ *Ibid* paras 082 ref id 41-082-20160211 and 083 ref id 41-083-20160211

³⁷ *Ibid* para 037 ref id 3-037-20150320

relevant to housing supply, these policies should take account of the latest and up to date evidence of housing need.³⁸ Indeed it is my view that the Plan was positively prepared and took into account the latest evidence available to the plan makers at the time. After careful consideration, given the uncertainty and the moving feast at District level about housing need, I have reached the conclusion that the housing supply policies in the Plan took account of the reasoning and evidence available at District level as far as that information was available at the time of submission and will contribute to the achievement of sustainable development. With the benefit of hindsight and changes to PPG, the Plan could perhaps have considered incorporating delivery timescales and the allocation of reserve sites³⁹ in the light of the uncertainty at District level. I have also considered the requests to suspend or hold the examination until such time there is greater certainty.

I place great weight on the emphasis in national policy and guidance on boosting housing supply and the achievement of sustainable development. To delete the policies from the Plan or to halt its progress would not help to boost the supply of housing or achieve sustainable development; both of which are key facets of the NPPF.

It would also go against the grain of localism. The housing supply policies in the Plan and the proposed site allocations have been prepared with the aim of achieving sustainable development and are an expression of the community's preferences for the type and location of development after significant public consultation. They will help to provide some certainty for the development industry and make a valuable contribution to the housing that is required. In themselves the site allocations have been assessed and selected through a process that included consultation on the site assessment criteria and a separate assessment as part of the SA accompanying the Plan. The policies in themselves and taking the Plan as a whole would not prevent other sustainable development coming forward.

The Plan's housing supply policies (based on the Courts interpretation of what might constitute a housing supply policy)⁴⁰ may become out of date. The option of an early review and update of the Plan may therefore be attractive to the Parish Council.

Policy BOLH1 Residential Development Mix

The NPPF supports the delivery of a wide choice of high quality homes and the creation of sustainable, inclusive and mixed communities.⁴¹ This policy seeks to support that aim by reflecting trends, needs and local demand providing evidence to show the housing mix is supported by local opinion. However, the policy is prescriptive and does not take into account viability although this flexibility is referred to in the supporting text. To

³⁸ PPG para 040 ref id 41-040-20160211

³⁹ *Ibid* para 009 ref id 41-009-20160211

⁴⁰ *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG and Richborough Estates v Cheshire East BC & SSCLG* [2016] EWCA Civ 168 referred to in GL Hearn's representation

⁴¹ NPPF para 50

ensure that the policy takes account of national policy and guidance and will help to achieve sustainable development, the policy requires modification.

- **Add the words “*subject to viability considerations*” at the end of the first sentence of the policy**
- **Reword the last sentence of the policy to read: “*An alternative mix of dwelling size provision will only be permitted if a robust justification is provided to the satisfaction of the local planning authority that the scheme as a whole would reflect the most up to date housing needs evidence available taking into account viability considerations.*”**

Policy BOLH2 Infill and Backland Development

The supporting text gives details about historical windfall sites build rates and makes a reasonable assumption about expectations in the future.

It sets out a number of issues to take into account on pages 36 and 37 of the Plan including matters such as plot width and building height. All the issues are clearly articulated and will help to achieve positive planning and a high standard of development. Although they do not appear in the policy itself, they will still offer useful guidance as supporting text and represent principles of good planning.

The policy itself is rather more generally worded and seeks to cover both design and amenity issues.

One phrase gives me some concern; “...reinforce the uniformity of the street by reflecting the scale, mass, height and form of its neighbours...”. Given the preceding issues which address plot width and height, visual separation and so on, I suspect it was the intention of the policy to ensure that existing characteristics and features were suitably respected. This is different to seeking to replicate what is there and would potentially stifle innovative design. This would not accord with national policy which whilst promoting and reinforcing local distinctiveness, also seeks to ensure that innovation, originality and initiative are not discouraged.⁴² I therefore recommend a modification to address this.

A second modification is recommended to improve the clarity of the criterion that deals with daylight and sunlight.

- **Delete “...the uniformity of the street...” and replace with “*the characteristics and features of the street*” in the first paragraph of the policy**

⁴² NPPF Section 7

- In the fourth bullet point of the policy replace the word “seriously” with the word “*materially*”; and add the word “*materially*” before “...obstructing the path of direct sunlight...”; and delete the words “once sunny”

Policy BOLH3 Affordable Housing

The supporting text to the policy refers to the details of an emerging policy in a document that has not yet been adopted. This is inappropriate as the emerging policy may be subject to change.

The policy seeks a level of affordable housing provision in line with whatever is the prevailing policy at MSDC level. This seems to be a risky approach given that it is likely the MSDC policy will change over the lifetime of the Plan and in any case if what is being sought is simply the same as what is being sought at District level this part of the policy is unnecessary.

The policy then requires schemes to demonstrate that local needs are addressed and encourages pre-application discussion with MSDC. This latter element places an additional burden on MSDC.

The last element of the policy seeks the creation of inclusive developments which is in line with national policy and guidance. For the avoidance of any doubt this last paragraph can be retained in its entirety.

Therefore the supporting text and policy require the following modification to ensure it meets the basic conditions:

- **Delete paragraph 4.41 on page 39 of the Plan**
- **Delete the first sentence of the policy that reads: “The proportion of residential provision that is affordable housing should be in line with the requirement in the MSDC District Plan.”**
- **Reword the (existing) second paragraph of the policy to read: “*The type of affordable provision on any particular site should seek to address local needs as identified in the most up to date housing needs evidence available taking into account viability considerations. Applicants are encouraged to discuss the provision of affordable housing with Mid Sussex District Council before submitting a planning application.*”**

Policies BOLH4a, BOLH4b and BOLH4c Housing Allocations

Three site allocations are proposed yielding approximately 41 – 45 dwellings. The Plan explains that together with existing commitments and windfalls it is anticipated that the overall housing figure could reach between 71 – 75 units over the Plan period. Although some representations query the wisdom of including windfalls in the figure, it is generally accepted that an allowance may be made for windfalls if there is evidence they have become consistently available and will continue to be a reliable source of supply.⁴³ In any case the Plan does not seek to limit overall housing figures.

An explanation of how sites have been selected is given in the Plan. As well as identifying sites through MSDC's Strategic Housing Land Availability Assessment, there was a 'call for sites'. There was also an opportunity to comment on the criteria used to assess the sites which were considered in relation to availability, suitability and achievability.

As well as this site assessment and selection process, each of the sites has been assessed as part of the SA. It is not unusual for other or additional sites to be proposed in representations or for the site assessment and selection process to be queried. Overall I consider that, based on the information before me, the site assessment and selection process has been sufficiently robust.

All three site allocations are shown clearly on maps to be found on pages 42, 45 and 47 of the Plan, but the policies do not cross-reference the maps. Therefore in the interests of clarity the maps should be numbered and cross-references inserted into the policies.

Taking each site allocation in turn, the first site is land opposite the former Queens Head Public House. Covering some two hectares, Policy BOLH4a allocates the site for about 30 dwellings. There is no need, and the phrase is not helpful, to say that permission will "ordinarily" be granted; this is common across the three site allocation policies.

The criteria-based policy then contains a number of requirements including ten car parking spaces for the school and new footpath links. Whilst the other criteria are reasonable subject to enhanced flexibility, there is no explanation for the specified number of car parking spaces for public use and the school and so whilst I agree every opportunity should be taken to provide more spaces, this requires additional flexibility to ensure it does not prevent the development from going ahead.

Southern Water request a minor wording change to Policy BOLH4a and this is recommended in the interests of clarity and accuracy.

The second site allocation, Policy BOLH4b, is G & W Motors site, London Road. The site was allocated in the MSDC Local Plan 2004 for approximately six units. Policy BOLH4b

⁴³ NPPF para 48

suggests a range of between 8 – 10 dwellings. Recognising that the site is currently in commercial use, the text explains that the land owner has indicated the site will become available over the Plan period. The policy is clearly written and sets out the way in which the site should be developed including the provision of an appropriate access and landscaping.

The third site allocation, Policy BOLH4c, is Bolney House Gardens. Situated at the southern end of the built up area, the site is adjacent to the Conservation Area. The policy clearly sets out how the site should be developed for approximately 3 – 5 dwellings. Subject to the modifications common to all three site allocation policies, in addition there is a minor word change to better reflect national policy and guidance on Conservation Areas.

- **Number all the maps which show the allocated sites and insert a reference tying the policy to that land in each of the three site allocation policies by adding the words “*as shown on Map XX*” after the site address**
- **Delete the word “ordinarily” from Policies BOLH4a, BOLH4b and BOLH4c**
- **In Policy BOLH4a add the words “*subject to viability considerations*” at the end of the criterion that reads “the provision of a minimum of 10 public parking spaces to serve Bolney C.E.P. School; and”**
- **In Policy BOLH4a change the fifth criterion to read: “*Take every available opportunity to provide a link to the existing footpath to the west of the site providing access onto The Street and to provide pedestrian links to the school; and*”**
- **In Policy BOLH4a change the sixth criterion to read: “*Incorporate green space within the site to integrate the development and take account of its context and the land levels within the site; and*”**
- **Replace the phrase “wastewater authorities” in the last bullet point of Policy BOLH4a with “*wastewater provider*”**
- **In the third criterion of Policy BOLH4c replace the phrase “...and ensures that the setting of the Conservation Area is maintained” with the words “*and ensures that the character or appearance of the Conservation Area is preserved or enhanced;*”**

Policy BOLA1 Protect and Enhance Open Spaces in the village

This policy seeks to allocate two open spaces as Local Green Spaces (LGS). The supporting text refers to the NPPF in this respect and in particular paragraph 77 of the NPPF which refers to these designations introduced in the NPPF.

The NPPF⁴⁴ is clear that local communities have the opportunity of designating LGS, but that such a designation will not be appropriate for most green areas or open space. The protection that this designation offers is similar to Green Belt. The NPPF lists a number of criteria that such a designation needs to meet. It further states that identifying land should be consistent with local planning of sustainable development.

I have therefore considered whether the two spaces meet the requirements set out in the NPPF.

Glebe Field is not an extensive tract of land and is convenient for the village. The Plan explains that the site is by a number of sports clubs and the school as well as the general public. As well as affording some long distance views of the South Downs, it is close to the listed Church and boasts mature trees. I saw at my site visit that this area was well contained and clearly used for recreational purposes including cricket and by dog walkers.

Batchelor's Field contains the new village hall, a play area and sports area. This area of largely flat open land contained a football pitch, play areas and was at the time of my visit much used.

Both spaces meet the criteria in the NPPF.

The policy designates both spaces and indicates the range of development that will be acceptable. The types and amount of development go beyond those normally acceptable under Green Belt policy which the NPPF indicates LGS will offer a similar protection. Yet the categories of development and the way in which the policy is worded are not incompatible with the current uses of the sites which has led to them being of special importance to the community and for this reason, the policy takes sufficient account of national policy and guidance. It will help to achieve sustainable development. It meets the basic conditions and no modifications are suggested other than to delete the reference to Appendix 4 as this does not seem to exist.

The proposals map does not show the LGSs with sufficient clarity. It is suggested that two maps showing the areas are inserted to be read alongside Policy BOLA1 and that the policy should refer to those (new) maps.

⁴⁴ NPPF paras 76, 77, 78

In addition, although it is not a modification I need to make to ensure the policy meets the basic conditions, it seems to me that the title of the policy goes beyond what the policy actually covers and therefore the Parish Council might like to consider an alternative title for the LGSs.

- **Delete the words “...the Proposals Map in Appendix 4...” from the policy**
- **Insert larger scale maps of the two LGS into the Plan and ensure that the policy refers to the maps by inserting the phrase “*Map XX and Map XX*” after “The following areas as shown on...”**

Policy BOLA2 Extension of Batchelor’s Field

An extension to Batchelor’s Field for additional recreational uses is supported by this policy. This replicates Policy BO3 of the LP 2004 which also proposes an extension to the recreation ground. The clearly worded policy seeks to ensure that any such uses will be appropriate given the open setting of the site and its proximity to Batchelor’s Field.

Once again the proposals map does not show the extension with sufficient clarity. I recommend that a new map is prepared and inserted into the Plan and that the policy cross-references that map.

- **Insert a new map of the land subject of this policy into the Plan and ensure that the policy refers to that map by inserting the phrase “*...as shown on Map XX...*” after the first reference of “Batchelor’s Field” in the policy**

Policy BOLA3 New School Buildings

This policy supports the provision of new buildings at the two schools within the Parish. The policy wording supports additional buildings and I consider that this may lead to some confusion in its application, particularly in circumstances when the school might wish to replace a building or an existing building needs to be demolished to enable a new building to be constructed for example. Therefore to help with clarity and the application of the policy, I suggest a modification to address my concern.

The policy then resists the loss of playing fields unless they are replaced. Operationally I feel this might result in an onerous requirement on the schools. However, the intention to retain playing fields is supported in the NPPF,⁴⁵ but subject to an assessment of the need. I therefore propose a modification to take account of the stance in the NPPF. The modifications are shown on the next page.

⁴⁵ NPPF para 74

- Change the word “additional” in the policy to “new”
- Replace the second paragraph of the policy with ***“The loss of playing fields will be resisted unless it is clearly demonstrated that the land is surplus to requirements or that the playing fields are replaced by equivalent or better provision in a suitable location accessible to pupils on foot.”***

Policy BOLA4 Securing Infrastructure

This is a simply worded policy that seeks to ensure that any infrastructure – social, physical or green – needed for a development will be provided. The policy then supports development that contributes to a number of infrastructure projects listed on page 54 of the Plan. The policy sends out a clear signal as to what the community seeks.

Given that the policy supports any development that makes such a contribution and this could be interpreted as development that might not meet the requirements of other policies in the development plan or encourage otherwise inappropriate development which I feel sure is not the intention of the policy, a modification is needed in the interests of the operation of the policy.

Lastly West Sussex County Council recommend some changes to the detail in two of the bullet points in paragraph 4.87 and these are recommended below in the interests of accuracy and clarity.

- Change the second paragraph of the policy to read ***“Development which is otherwise acceptable that provides contributions to the Bolney Neighbourhood Plan infrastructure projects listed in paragraph 4.87 will be strongly supported.”***
- Replace “WSCC” in bullet point three of paragraph 4.87 with ***“Highways England”***
- Replace “Highways England” in bullet point five of paragraph 4.87 with ***“WSCC”***

Policy BOLA5 High Speed Broadband

This policy seeks to ensure that new buildings, including dwellings on the allocated sites, should be served by high speed broadband. The wording of the policy is arguably complex dealing with “properties” and “new buildings” and it seems odd that the policy only relates to new residential development on the allocated sites. It seems to me that the intention of the policy is to support high quality communications infrastructure in

line with the NPPF.⁴⁶ As a result I suggest that the policy is modified to ensure there is clarity and flexibility and that it applies to all development.

- **Reword Policy BOLA5 to read: “All new development must be designed to enable connection to high quality communications infrastructure including super-fast broadband. Where this would not be possible, practical or economically viable Community Infrastructure Levy may be used for this purpose or a planning contribution may be sought.”**

Business

Policy BOLB1 Protection of Existing Commercial Premises

The Plan explains the context for this policy. It strikes at the heart of the economic aspects of sustainable development aiming to retain employment uses, but ensuring that future development is not stifled when the use is no longer viable.

The wording of the first paragraph of the policy is unclear and does not seem to achieve the intentions outlined in the supporting text and so for this reason a modification is suggested. For the avoidance of any doubt the second paragraph and its two criteria are retained.

The supporting text refers to a proposal in the emerging District Plan. Given that this may be subject to change, it is recommended that this reference be removed.

- **Replace the first paragraph of the policy with: “The change of use to other employment, commercial or business uses, or the extension of, buildings in employment, commercial or business uses located in the built up area of Bolney will be supported.”**
- **Delete the reference to the proposal in the emerging District Plan from paragraph 4.90**

Policy BOLB2 Expansion of Commercial Activity at Bolney Grange Business Park

Page 58 refers to BOLB2 and “Development within Business Estates”. Policy BOLB2 only refers to the Bolney Grange Business Park and so to avoid any confusion arising the reference on page 58 should reflect the subsequent policy.

The policy supports an extension of the Bolney Grange Business Park subject to transport related and drainage issues being satisfactory together with the retention of

⁴⁶ NPPF Section 5

an important tree line. A number of representations express concern about the suitability of access and in particular in relation to Stairbridge Lane. However, the policy would provide new employment opportunities locally with the appropriate safeguards. It does however require some sharpening up of the wording to ensure it provides the practical framework required by national policy and guidance.

A representation supporting the policy has been submitted on behalf of the landowner. A transport assessment has also helpfully been submitted to help address concerns over traffic impact. The representation also seeks allocation of a further area of land, but my remit is limited to assessing what is before me in relation to the basic conditions.

A map on page 59 of the Plan relates to the land in question. The map should be numbered and a title added together with a cross-reference to it in the policy. There is also no need to repeat “Bolney Grange Business Park” at the start of the policy as the title ensures that the policy applies to that area.

The supporting text refers to an objective of the emerging District Plan. Given that this may be subject to change, it is recommended that this reference be removed.

- **Revise title and text on page 58 so that it ties up with Policy BOLB2**
- **Number and title the map on page 59 and insert a cross-reference to it in the policy itself by adding the words “*as shown on Map XX*” after “...Bolney Grange Business Park...”**
- **Delete the words “Bolney Grange Business Park” at the start of the policy**
- **Reword the second criterion of the policy to read: “*it is demonstrated that there is satisfactory drainage; and*”**
- **Delete the reference to the objective in the emerging District Plan from paragraph 4.102**

Policy BOLB3 Provision of a Community Shop

Bolney has a track record with a café run by the community and as a result of the neighbourhood planning journey has identified that the provision of a community shop would serve the community well. This is to be commended.

The policy lends support to any proposal to change the use of an existing building to a retail facility capable of serving the local community. This, to my mind, would support any application for a change of use to retail as it could be readily argued that any such facility would be capable of serving the needs of the community. Given that a planning permission would not distinguish between the occupation or management of a retail unit, provided the Parish Council are comfortable with the policy which despite its title,

effectively supports any change of use to any retail facility anywhere in the Parish (as the policy is not locationally specific), then this policy would meet the basic conditions as it would promote local services.

If the Parish Council did not intend the policy to be so widely applicable, I suggest that the aspiration for a community shop is placed in a separate 'community aspirations' element or appendix of the Plan as a community action and the policy and its supporting text deleted from the Plan.

Travel and Parking Policies

Policy BOLT1 Transport Impact of Development

The policy seeks to ensure that new development will have safe access and an acceptable impact on the local highway network. In addition walking and cycling routes are sought. The supporting text to the policy outlines the issues well. In order to ensure that the policy is clearly worded and deals with development within the Parish and so meets the basic conditions, I suggest a number of modifications.

- **Delete the word “ordinarily” from the policy**
- **Change criterion a) to read: “*That any additional traffic generated by the proposal has an acceptable impact on the Parish’s pedestrians, cyclists, road safety and will not lead to increased congestion; and*”**
- **Replace criterion c) with; “*Any available opportunities are taken to provide safe pedestrian or cycle routes from the development to key facilities in Bolney village.*”**
- **Explain and list what the key facilities in Bolney village are in the supporting text**

Policy BOLT2 Parking in the Village

Parking is clearly an issue of concern in the village. This policy seeks to ensure that there is no net loss of parking spaces from car parks and supports new car parks subject to highway safety and other considerations. This reflects local circumstances and takes a pragmatic view to the redevelopment of car parks given those circumstances. The policy is clearly worded, but there could be some ambiguity about the requirement for any replacement car park to be in “close proximity to the site”. The car parks the policy relates to are shown on the proposals map although I had trouble identifying each one clearly. Subject to two changes to address these concerns shown overleaf, the policy meets the basic conditions.

- **Include a large(r) scale map which shows the existing car parks that the policy applies to and cross-reference this map in the policy itself**
- **Delete the words “...elsewhere in close proximity to the site.” from the first paragraph of the policy and replace with the words “...by equivalent or better provision in a suitable location.”**

Policy BOLT3 Off-street Parking Provision for New Residential Development

The supporting text to the policy explains the need for parking standards in the Parish by referring to local circumstances and more widely applicable data. In principle it is locally distinctive and appropriate given those circumstances the Plan outlines. However, the policy includes two requirements that I consider are onerous and ones that would be difficult to enforce. These are the need for development not to contribute to on-street parking and not use existing off-street spaces. Most development is likely to contribute some additional parking needs and where people park is difficult to manage; in any case even if this was a planning issue, I am unsure as to what the sanction might be. Therefore I feel the most this policy can achieve is to ensure that new development provides an adequate amount of parking and this in itself will help to achieve those two other aspirations. In order to meet the basic conditions, a modification is therefore recommended together with a second that arises as a consequence of the first.

- **Delete “the development will not contribute to on-street parking, and the development will not use existing off-street parking spaces, and” from the policy**
- **Replace the first sentence of the policy and the remaining sentence (after the above modification) so that the policy reads: “*New residential development will be expected to provide the following off-street parking provision as a minimum:...*” [retain list and reference to visitor parking]**

Section 5: Monitoring and Review

It is to be welcomed that the Plan will be reviewed regularly and that a comprehensive list of targets and monitoring indicators is to be found in Appendix B.

Proposals Map

I have made a number of references to the Proposals Map throughout my report. The concept of its inclusion is to be welcomed, but I found it relatively hard to decipher and given its importance to a number of policies in the Plan, I have suggested modifications to ensure that the information is clear and inserted close to the policy it sits alongside.

In the interests of brevity, I do not repeat those modifications here, but simply flag the issue up.

Appendices

Appendix A contains a helpful list of information contained in the evidence base.

Appendix B is the monitoring indicators referred to in section 5 of the Plan. Some of the indicators and targets do not relate to development and use of land matters for example traffic accident frequency. However, given that the Plan does not have to include any information on monitoring although I regard it as good practice that it does, there is little doubt in my mind that the list as a whole will assist the Parish Council in ensuring that the Plan is effective.

Appendix C outlines the basic conditions and arguably as the Plan proceeds it is not essential to include this, but I regard this as a matter for the Parish Council.

8.0 Conclusions and Recommendations

I am satisfied that the Bolney Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore delighted to recommend to Mid Sussex District Council that, subject to the modifications proposed in this report, the Bolney Neighbourhood Development Plan should proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Bolney Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Bolney Neighbourhood Plan area as approved by Mid Sussex District Council on 9 July 2013.

Ann Skippers MRTPI

Ann Skippers Planning
19 June 2016

Appendix List of Key Documents specific to this Examination

Bolney Submission Neighbourhood Plan 2015-2031 (Regulation 16) October 2015

Basic Conditions Statement October 2015

Consultation Statement October 2015

Sustainability Assessment incorporating Strategic Environmental Assessment
September 2015

Sustainability Assessment incorporating Strategic Environmental Assessment Non
Technical Summary October 2015

Habitats Regulations Assessment Screening Report (Regulation 16) dated 27 October
2015

Mid Sussex Local Plan 2004

The emerging Mid Sussex District Local Plan 2014 – 2031 and various other related
documents including the Focused Amendments to the Pre-Submission Draft District
Plan of November 2015 and the Housing and Economic Development Needs
Assessment February 2015 and Update November 2015

Various evidence documents and other information on background to the Bolney
Neighbourhood Plan on the Group's website

List ends

Appendix Note of 9 April 2016

Note to Mid Sussex District Council from Ann Skippers, Independent Examiner

A number of matters have arisen as a result of my initial review of the Neighbourhood Plan, its supporting documents and the representations.

- I. A representation has been received from GL Hearn dated 4 April 2016; this was sent direct to me via email on 5 April and then to my postal address. It is addressed to me as Examiner and, amongst other points, requests that I suspend the examination.

As a general rule of thumb I will usually not accept late or additional representations. The only time when I will consider accepting a representation submitted after the consultation period ends is in those cases where there has been a material change in circumstances since the six-week consultation period has ended. For example national planning policy changes. In these circumstances anyone wishing to introduce new evidence should fully justify why and in the case of substantial documents indicate which parts of the document are relevant and why.

I also consider it important that any correspondence is managed by the LPA and that the Examiner, in order to retain independence and in the interests of openness and transparency, does not enter into correspondence with an individual party.

Having read GL Hearn's representation alongside their original representation submitted during the Regulation 16 consultation period, there are references to the Court of Appeal judgement in relation to the Suffolk Coastal DC and Hopkins Homes Ltd and SSCLG and Richborough Estates Partnership LLP and Cheshire East BC and SSCLG [2016] EWCA Civ 168 and changes to Planning Policy Guidance (PPG). I am aware of both these changes as any Examiner would be as part of their general practice. Other matters seem to relate more to the promotion of the site in question and their representations to the LPA in relation to the emerging Local Plan.

Nevertheless it is important that GL Hearn's letter is dealt with appropriately. Therefore may I please request that the LPA responds to GL Hearn?

Firstly it should be confirmed that I have received the letter and that I have made this request that the LPA responds on my behalf.

Secondly, that late representations are not usually accepted unless there has been a material change in circumstances since the six-week period of consultation has ended.

Thirdly, should GL Hearn wish their letter to be accepted, it would be most helpful if they could outline what material change in circumstance has occurred since the six-week period has expired that they wish to introduce and fully justify why any

new evidence is relevant and in the case of substantial documents indicate which part of the document are relevant and why. Of course this applies to the relevance to the Neighbourhood Plan examination and not the situation at Local Plan level or in relation to any pre-application or planning application they may be pursuing and they should be reminded of this.

In addition it could usefully be indicated that if any such justification is forthcoming, it would be helpful to the Examiner to keep this as succinct, clear and brief as possible.

Fourthly, it could be stressed that I as Examiner will carefully consider any issue of relevance to the examination including up to date national policy or guidance and any judgements handed down from the Courts as a matter of course in my examination as I will be aware of these matters as a planning professional. In addition the need for any action in relation to the examination process including its suspension, will form part of my deliberations. Having received this comfort, they could be invited to withdraw their letter.

Fifthly, it should be pointed out that if they wish to submit a further letter justifying any new evidence they wish to submit, then that letter and their one of 4 April will be a matter of public record if accepted and may cause the Examiner to seek views from other representators, the LPA or the Parish Council on the matters they raise in the interests of fairness.

Finally, they should be given a reasonable deadline to respond to you please so that the examination is not unduly delayed; I do not think it necessary to give more than a week.

Should you find it useful for me to cast an eye over your response before you sent it to GL Hearn I would be pleased to do this. You may also wish to seek your own advice on this matter.

2. As a separate matter, I would find it useful for the LPA and the Parish Council to provide me with a brief factual agreed update or 'position statement' on the status and progress of the emerging Local Plan and any material changes to the emerging Local Plan of relevance so that I am up to date with the latest position at MSDC level.

Please may I caution both parties to restrict this note to containing matters of fact only and not to stray into giving me views on any effects on the Neighbourhood Plan or to include any evidence or opinion on whether the Neighbourhood Plan meets the basic conditions.

3. Pending the response from GL Hearn and yourselves and the Parish Council on the position statement, I will continue with the examination.

With many thanks in anticipation of your kind assistance on these matters. If there are any queries, please let me know.

Ann Skippers 9 April 2016

Appendix Note 2 of 29 April 2016

Note 2 to Mid Sussex District Council from Ann Skippers, Independent Examiner

Representations from GL Hearn.

4. A representation was received from GL Hearn dated 4 April 2016; the LPA at my request wrote to GL Hearn on 15 April 2016 to ask them to specify the material change(s) in circumstance that has occurred since the six-week period expired that they wished to introduce and to fully justify why any new evidence was relevant to the Neighbourhood Plan examination. The letter offered reassurance that I would as a matter of course take into account the latest national guidance and any judgements handed down from the Courts of relevance to the examination and invited them to withdraw their representation on this basis.
5. GL Hearn responded promptly to that letter on 20 April 2016 and confirmed they do not wish to withdraw the letter and reiterated the issues they consider to be material changes in circumstances and material to the examination.
6. Whilst I remain of the view that these are matters which I would take into account anyway during the normal course of my examination, I consider it prudent to accept both letters from GL Hearn.
7. The implications of taking this course of action are that others who made representations at Regulation 16 stage (the LPA's publicity period) should also be given an opportunity to comment on those matters raised by GL Hearn together with an opportunity for the LPA and the Parish Council to likewise comment.
8. I consider then it would be prudent for the LPA to write to GL Hearn and confirm I will accept their letters of 4 and 20 April 2016, indicating that in the interests of fairness all other representors at Regulation 16 stage will be asked for their views on the matters raised by GL Hearn and be given 21 days to respond and that the LPA will endeavour to put this correspondence and any replies received on the LPA website one week after the close of the 21 day period and that the Examiner does not intend to accept any further representations unless exceptional circumstances arise.
9. The LPA then should, in my view, put the GL Hearn letter of 4 April, the LPA letter in response and the GL Hearn letter of 20 April on the LPA's website, individually contact all the Regulation 16 representors drawing their attention to the three letters.
10. The letter from the LPA to all those who have submitted representations on the Regulation 16 consultation and the Parish Council, in my judgement, should briefly explain the specific matters raised by GL Hearn using the language GL Hearn have used and then say something along the lines of:

“I am aware that you have submitted representations as part of the Regulation 16 consultation on the Bolney Neighbourhood Plan. As requested by the Examiner, I am now therefore writing to you to ask whether you wish to amend your representation in the light of the points made by GL Hearn. It is important to note that further comments are not being invited on any other matters. Any responses should be made to XXXX by XXXX [insert date after 21 days] and this response should include any amendments that you wish to make.

It is important to note that the Examiner does not intend to accept any further representations on any other issues unless exceptional circumstances arise and considers it important for all parties that she is able to progress the examination in a timely manner.”

11. Should you find it useful for me to cast an eye over the two draft letters I would be pleased to do so and the suggestions above are given in order to be helpful to you.
12. After the 21 day period has ended and any amended representations have been passed to me, I will continue with the examination.

With many thanks in anticipation of your kind assistance. If there are any queries, please let me know.

Ann Skippers
29 April 2016