

# **Crawley Down Neighbourhood Plan 2014-2031**

**A report to Mid Sussex District Council  
of the Examination of  
the Crawley Down Neighbourhood Plan**

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14 August 2015**



## CONTENTS

1. Introduction
2. Location and characteristics
3. The basis for this examination
  - 3.1 The basic conditions
  - 3.2 Other statutory requirements
  - 3.3 National policy
  - 3.4 Existing development plan and emerging MSDP
4. Policies
  - 4.1 Introduction
  - 4.2 Policy CDNP02 Securing Sustainable Local Infrastructure
  - 4.3 Policy CDNP03 Retention and Enhancement of Recreational and Local Green/Open Spaces
  - 4.4 Policy CDNP04 Retention of Local Retail Facilities
  - 4.5 Policy CDNP05.1 Building Extensions
  - 4.6 Policy CDNP05.2 Infill Housing
  - 4.7 Policy CDNP05.3 Loss of Existing Car Parking
  - 4.8 Policy CDNP05.4 Accessible/Single Level Housing
  - 4.9 Policy CDNP06 Control of New Developments
  - 4.10 Policy CDNP07 Sustainable Drainage Systems
  - 4.11 Policy CDNP08 Retention of Existing Employment Sites
  - 4.12 Policy CDNP11 Prevention of Coalescence
  - 4.13 Policy CDNP12 Protect and Enhance Biodiversity
  - 4.14 Policy CDNP13 Promoting Sustainable Transport
  - 4.15 Policy CDNP14 Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)

5. Other matters
  6. Conclusions on the basic conditions
  7. Formal recommendations
- Appendix Questions put to MSDC and their response

## Abbreviations

BUA	Built Up Area
BUAB	Built Up Area Boundary
CDNP	Crawley Down Neighbourhood Plan
LPA	Local Planning Authority (MSDC)
MSDC	Mid Sussex District Council
MSDP	Mid Sussex District Plan (in preparation)
MSLP	Mid Sussex Local Plan (2004)
NDP	Neighbourhood Development Plan
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SEA	Strategic Environmental Assessment
SPA	Special Protection Area
The District Council	Mid Sussex District Council
The Framework	NPPF
The Parish Council	Worth Parish Council
WPC	Worth Parish Council

## 1. Introduction

- 1.1 I have been appointed by Mid Sussex District Council (MSDC), with the consent of Worth Parish Council (WPC), to carry out the independent examination of the Crawley Down Neighbourhood Plan (CDNP), in accordance with the relevant legislation<sup>1</sup>.
- 1.2 As required by the legislation, I am independent of WPC and MSDC, I do not have an interest in any land that may be affected by the draft order, and I have appropriate qualifications and experience. I am a chartered town planner and accredited mediator with wide experience in local and central government and private consultancy.
- 1.3 In carrying out this examination I have visited the locality, unaccompanied, and had regard to the following documents:
- Crawley Down Neighbourhood Plan, Submission Version, December 2014
  - Crawley Down Neighbourhood Plan, Basic Conditions Statement, February 2015
  - Crawley Down Neighbourhood Plan, Consultation Statement, December 2014
  - Crawley Down Neighbourhood Plan, Collated Consultation Statements, April 2015
  - Crawley Down Neighbourhood Plan, Sustainability Report/ Sustainability Appraisal (incorporating Strategic Environmental Assessment), Issue 3, 3 February 2015
  - Crawley Down Neighbourhood Plan, Habitats Regulations Assessment Screening Report, 3 February 2015

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<sup>1</sup> Localism Act 2011  
Town and Country Planning Act 1990 as amended  
Planning and Compulsory Purchase Act 2004 as amended  
The Neighbourhood Planning (General) Regulations 2012

- Crawley Down Neighbourhood Plan, Habitats Regulations Assessment (HRA) Screening Opinion (and flowchart), August 2013
- Crawley Down Neighbourhood Plan, Summary of Key Comments and Responses, Regulation 14 & 16 Consultations
- Background and supporting documentation on the Crawley Down Plan website
- Individual Representations
- Summary of Representations prepared by MSDC, April 2015
- Appeal Decision APP/D3830/A/14/2217310
- Appeal Decision APP/D3830/A/12/2184589
- Mid Sussex Local Plan, adopted May 2004 (saved policies)
- Mid Sussex District Plan 2014-2031, Pre-Submission Draft, March 2015 and supporting evidence
- Examiners' Reports for the Ardingly, Cuckfield, Hurstpierpoint and Sayers Common, Slaugham, West Hoathly and Tattenhall Neighbourhood Plans.

- 1.4 Throughout this report I shall refer to representations using the reference numbers allocated by MSDC. Several representations support the CDNP as it stands or make no significant comment (108, 15043, 16412, 16606, 17558, 20185 and 20186). Whilst I have carefully considered all the representations, I do not make specific reference to all of them in this report.
- 1.5 Reference 20190 comments upon an 'Executive Summary' of the CDNP, which is not before me for examination. I have taken into account the essence of those comments where they are relevant to the Submission Version of the NP.
- 1.6 Amongst the written representations made to MSDC was a request for a hearing (reference 11619). The general rule is that the examination of the issues by the examiner should be by consideration of the written representations. The examiner must cause a hearing to be held where it is necessary to ensure adequate examination of a particular issue, or where it is necessary to give a person a fair chance to put a case<sup>2</sup>. In the instance before me, the written representations are detailed, coherent, and supported by up to date evidence. In my view it was not necessary for a hearing to be held.
- 1.7 During the preparation of this report, I set out a number of questions on matters of fact for MSDC to consider, with a request that they, and MSDC's response, be copied to WPC and to those who made representations. Those questions and MSDC's response are set out as an Appendix to this report.
- 1.8 Throughout the process of preparing the CDNP between 2012 and 2014 WPC sought to inform and involve the community. The means of doing so included newsletters, open meetings, flyers, a plan website, leaflets, posters, newspaper advertisements, surveys, and a Parish Poll. In December 2013 there was a 'call for sites', followed by a public meeting at which landowners presented their proposals.
- 1.9 I am satisfied that the Parish Council made every effort to inform the local community and to engage them in the plan-making process.

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<sup>2</sup> Paragraph 9 of Schedule 4B to the Town and Country Planning Act 1990 (as amended)

1.10 It is clear to me that a great amount of care, commitment and effort has gone into the production of the CDNP, and that it is founded on a heartfelt desire to preserve the character and setting of the village.

## **2. Location and characteristics**

2.1 Crawley Down lies close to the northern boundary of Mid Sussex, within the Gatwick Diamond economic zone. The village has a population of around 5,500, and the housing dates principally from 1930-1950 and 1970-1980. The village is served by a variety of facilities, including primary and infant schools, a health centre, a pub, shops, a post office, a social club, sports facilities and a village green with a children's play area. It lies close to the Ashdown Forest, an important nature conservation area, and the High Weald Area of Outstanding Natural Beauty.

## **3. The basis for this examination**

### **3.1 *The basic conditions***

3.1.1 In brief, the basic conditions which must be met by the CDNP are:

- it must have appropriate regard to national policy
- it must contribute to the achievement of sustainable development
- it must be in general conformity with the strategic policies in the development plan for the local area
- it must be compatible with EU obligations, including human rights requirements
- it must not have a significant adverse effect on a 'European site' (under the Conservation of Habitats and Species Regulations 2010).

3.1.2 I shall deal in more detail with each of these conditions below.

3.1.3 The examination is meant to be carried out with a 'light touch'. I am not concerned with the 'soundness' of the plan, but whether it meets the basic conditions. Several representations (references 11619, 20109, 20182 and 20190) suggest specific housing sites for my consideration, but it is neither necessary nor appropriate for me to make judgements about their suitability or relative merits. They are an indication, as was the 'call for sites', that landowners and developers are prepared to bring forward viable sites within the Neighbourhood Plan Area. I deal with housing issues below.

3.1.4 A Sustainability Appraisal (SA) was carried out alongside the preparation of the CDNP to ensure that environmental, social and economic sustainability objectives were complied with and to avoid or minimise any adverse impacts. The SA is said to incorporate Strategic Environmental Assessment in accordance with the legislation.

3.1.5 The SA is criticised in some detail by one of the objectors to the CDNP (reference 11619). I deal with the relevant issues in considering Policy CDNP06 below.

### **3.2 Other statutory requirements**

- 3.2.1 When submitted to the local planning authority (LPA), a Neighbourhood Development Plan (NDP) should be accompanied by a map or statement identifying the area to which the plan relates, a 'basic conditions statement' explaining how the basic conditions are met, and a 'consultation statement' containing details of those consulted, how they were consulted, their main issues and concerns and how these have been considered and where relevant addressed in the proposed CDNP. All these requirements have been met by the CDNP.
- 3.2.2 The basic conditions statement is criticised by an objector (reference 11619) and I deal with the relevant issues in considering Policy CDNP06 below.
- 3.2.3 The CDNP must meet other legal requirements, including:
- that it is being submitted by a qualifying body (as defined by the legislation)
  - that what is being proposed is a NDP as defined in the legislation
  - that the CDNP states the period for which it is to have effect
  - that the policies do not relate to 'excluded development'
  - that the proposed CDNP does not relate to more than one neighbourhood area
  - that there are no other NDPs in place within the neighbourhood area.
- 3.2.4 All these requirements have been met. The plan period is from 2014 to 2031.

### **3.3 National policy**

- 3.3.1 National policy is set out in the National Planning Policy Framework (NPPF). The prime objective of the Framework is to set out policies which will achieve sustainable development, and this theme has been clearly identified by the CDNP.
- 3.3.2 The Framework is supported by web-based Planning Practice Guidance (PPG).

### **3.4 Existing development plan and emerging MSDP**

- 3.4.1 The existing development plan for Crawley Down is the Mid Sussex Local Plan (MSLP), adopted in 2004. The housing provisions of that plan are out of date and do not provide strategic guidance for the CDNP. MSDC cannot demonstrate a five-year housing land supply as required by the NPPF.
- 3.4.2 MSDC prepared a local plan, the Mid Sussex District Plan (MSDP), to replace the MSLP. It reached an advanced stage before being withdrawn from examination. A new draft MSDP has reached pre-submission stage. If the present timetable is followed, the plan will be adopted in Spring 2016.

- 3.4.3 PPG advises that a draft neighbourhood plan is not tested against the policies in an emerging local plan, although the reasoning and evidence informing the local plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.
- 3.4.4 Where a neighbourhood plan is brought forward before an up-to-date local plan is in place, the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging local plan and the adopted development plan, with appropriate regard to national policy and guidance.
- 3.4.5 In this case, that advice is particularly important, because the emerging MSDP envisages neighbourhood plans allocating a significant proportion of the housing land needed to meet the plan's targets.
- 3.4.6 Policy C1 of the MSLP protects the countryside for its own sake, and resists development beyond the built-up area boundaries (BUAB) defined by the plan. Policy C2 defines strategic gaps within which development is strictly controlled, in order to prevent coalescence and retain the separate identity and amenity of settlements. Clearly these policies are out of date to the extent that the BUAB are so tightly drawn that there is little land available outside them to allow development for housing (a conclusion supported by a recent planning appeal decision – see reference 20109). On the other hand, the Framework says that planning should recognise the intrinsic character and beauty of the countryside. I do not think that it would be reasonable to discount entirely either of these policies simply because there is not, for the present, a formally identified five-year land supply. The MSDP, which is at an advanced stage of preparation, sets out the LPA's strategy for housing provision. The amount of housing currently envisaged by the LPA as needing to be provided in and around the smaller settlements in the district could clearly be accommodated without developing all of the open countryside between the settlements. This would be true even if the examination of the MSDP were to result in a higher level of housing provision than that which is currently proposed. The draft MSDP proposes policies to protect the countryside and the strategic gaps between settlements, and in my judgement it is reasonable to give the current saved policies some weight. I deal with the consequences for the CDNP below.
- 3.4.7 The defined BUAB of Crawley Down excludes areas of low density development on the edges of the village including parts of Turners Hill Road, Sandy Lane and Sandhill Lane, all of which are regarded as being part of the countryside and are therefore subject to policies of development restraint. The village is tightly constrained by countryside and by a strategic gap. The strategic gap boundary follows the BUAB, except for an area of low density residential development on Sandhill Lane, which is not included in the gap.

## **4. Policies**

### **4.1 Introduction**

- 4.1.1 The plan sets out a clear vision: 'A thriving and attractive village community set in unspoilt and accessible countryside that provides an excellent quality of life for residents, visitors, and those who work in, or travel through, the area'.
- 4.1.2 The land use policies are helpfully distinguished from five 'proposals' for activities intended to meet the objectives of the plan and deliver the vision through annual business plans. They



deal with such matters as Assets of Community Value, traffic management, primary education, the enhancement of green infrastructure, and the delivery of affordable housing for local needs. As they are not land-use policies they are not before me for consideration. However, some of the representations (references 15159 and 20190) suggest changes (some are matters of fact, and therefore of considerable importance) to these proposals, and I **recommend** that the Parish Council consider whether these suggestions would improve the accuracy and deliverability of the proposals, and the credibility of the plan.

- 4.1.3 There are gaps in the land use policy numbering, which might lead to confusion. It would be helpful to renumber the policies, and I so **recommend**.
- 4.1.4 Throughout the plan, there are references to the policies of the emerging MSDP. This is potentially helpful, but the policy numbers appear to be those of the withdrawn plan, and not the emerging one. I therefore **recommend** that the references are either corrected or removed.

## **4.2 Policy CDNP02 Securing Sustainable Local Infrastructure**

- 4.2.1 This policy says that development will be permitted where the infrastructure necessary to support it is in place, or where it can be provided in a timely manner through developer funded contributions. Thus far, the policy poses no difficulties. If necessary infrastructure does not exist, and neither the appropriate statutory undertaker nor the developer proposes to make provision for it, then it is perfectly reasonable to refuse permission.
- 4.2.2 However, the policy goes on to say that financial contributions will be required, 'as appropriate', 'from each developer' for the provision of a wide range of infrastructure including sewerage, electricity and gas supply, drinking water supply, and many other social, physical and green infrastructure requirements. Some of these requirements are not normally funded by developers, and others will in future be encompassed by a Community Infrastructure Levy Charging Schedule, when one is adopted by MSDC (references 15159 and 20187).
- 4.2.3 I therefore **recommend** that the second sentence of the policy, including the list of priorities (a-j), be removed from the policy itself and that it should be incorporated in the supporting text, to illustrate the range of facilities which are of concern to the Parish Council, and that it should be modified by the insertion of the words 'and where permissible' after the words 'as appropriate'.
- 4.2.4 In my judgement it is unnecessary for the policy to say that the provision of infrastructure will be encouraged, as proposed by Southern Water (reference 164). It is clear from the supporting text, for example paragraph 39, that pressure on infrastructure is a matter of great concern for the community, and the thrust of the policy itself reflects that concern.
- 4.2.5 Thames Water (reference 20187) request that there should be a commitment in the CDNP to the provision of a strategic drainage strategy to support the NP. Whilst this is a desirable and prudent aim, there is no mechanism by which the NP could be certain of bringing it about.

### **4.3 Policy CDNP03 Retention and Enhancement of Recreational and Local Green/Open Spaces**

- 4.3.1 The protection of local green space is encouraged by national policy. However, Southern Water (reference 164A) point out that PPG recognises that water and wastewater infrastructure sometimes has particular locational needs which mean that otherwise protected areas may exceptionally have to be considered for such development. Policy CDNP03 as drafted does recognise that built development on local green space might be permitted for 'local community infrastructure', but this is not defined in the plan.
- 4.3.2 I therefore **recommend** (a) that the meaning of 'local community infrastructure' be clearly defined for the purposes of the policy and (b) that the words 'including essential water or wastewater infrastructure which cannot reasonably be located elsewhere', be included either in that definition or within the policy itself.
- 4.3.3 Sport England (reference 15624) point out that paragraph 74 of the NPPF takes a robust line on the protection of playing fields, and they suggest that Policy CDNP03 should be strengthened accordingly. However, the alternative policy wording suggested by Sport England is in my view unnecessarily complex in the context of the NP, and I consider that the policy as it stands gives adequate protection to the local playing fields.

### **4.4 Policy CDNP04 Retention of Local Retail Facilities**

- 4.4.1 Certain changes of use are permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015, and it is not possible for a NP policy to over-ride those provisions.
- 4.4.2 To ensure that this policy does not inadvertently conflict with national policy, I **recommend** that the words 'Subject to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification):' be inserted at the head of the policy.
- 4.4.3 Criterion (c) of this policy refers to 'a Building or Structure of Special Character'. That term is not defined in the CDNP, nor, so far as I am aware, in the MSLP or draft MSDP. In this respect, therefore, the policy lacks precision and clarity.
- 4.4.4 The MSLP and the draft MSDP contain policies concerning 'listed buildings and other buildings of merit'. It may be that these are what the CDNP has in mind.
- 4.4.5 If so, I **recommend** (a) that the terms used in the MSLP and the draft MSDP be used in place of 'Building or Structure of Special Character', and (b) that, in any event, whatever terms are used should be precisely defined within the CDNP.
- 4.4.6 The MSLP defines two 'Areas of Townscape Character' within Crawley Down. These are identified on Figure 8 of the CDNP. However, they are not referred to in the policies of the CDNP. English Heritage (reference 519) suggest that the characteristics of the Areas of Townscape Character should be described in the CDNP, and that 'Areas of Townscape Character' should be added to criterion (c). If the Parish Council believe that these areas are still of particular importance to the fabric of the village, it would be appropriate to describe them in the plan, and to include them in criterion (c), and I so **recommend**.

#### 4.5 ***Policy CDNP05.1 Building Extensions***

- 4.5.1 English Heritage (reference 519) recommend that the CDNP should make specific reference to the listed buildings which contribute to the rural character of the locality. Statutory duty requires that in considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. National policy requires that special regard be paid to the desirability of sustaining and enhancing the significance of heritage assets. English Heritage suggest inserting a criterion to this effect into several of the plan's policies.
- 4.5.2 In my opinion it would be in keeping with the thrust of national and local policy to make some reference to the protection and enhancement of heritage assets in the relevant policies.
- 4.5.3 For the reasons set out in paragraph 4.4.6 above, it would also be appropriate to make reference to the 'Areas of Townscape Character'.
- 4.5.4 I therefore **recommend** that criterion (a) of Policy CDNP05.1 should be amended to read: 'The scale, height, and form of the extension should be subservient to the existing building, and should be in character with the street scene. Where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character'.
- 4.5.5 Thames Water (reference 20187) consider that the policy should make reference to the protection of public utility infrastructure, such as sewers, which might be affected by extensions. However, the identification, protection or displacement of such infrastructure is normally a matter of technical detail rather than a land use constraint affecting the principle of development, and for that reason I do not think that the proposed modification is necessary or appropriate.

#### 4.6 ***Policy CDNP05.2 Infill Housing***

- 4.6.1 For the reasons set out in paragraph 4.4.6 and section 4.5 above, I **recommend** that a further criterion should be added to Policy CDNP05.2 as follows: 'The scale, height, and form of the development should be in character with the street scene. Where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character'.

#### 4.7 ***Policy CDNP05.3 Loss of Existing Car Parking***

- 4.7.1 On-street parking is perceived as a significant issue in Crawley Down, because of its impact upon the free flow of traffic and its appearance (paragraph 60 of the CDNP). This policy seeks to prevent the loss of off-street car parking. MSDC (reference 15159) say that the policy might be difficult to implement in practice, particularly because of permitted development rights. They cite paragraph 154 of the NPPF, which says that (local plan) policies should provide a clear indication of how a decision maker should react to a development proposal. MSDC apply published parking standards to proposals for new development.

- 4.7.2 In principle, the desire to preserve off-street parking does not seem to me to be at odds with either the strategic policies of the local plan, or with the broad thrust of national policy.
- 4.7.3 It would be possible to preface the policy with the words ‘Subject to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification)’. This would avoid conflict with statutory provisions, and I so **recommend**.
- 4.7.4 There would be no necessary conflict with MSDC parking standards. A proposed development might be required to provide a certain number of spaces, and the scheme might show them. However, if the site of the proposed development were a well-used, formally laid-out, established car park in an area with a shortage of off-street parking, it might well be reasonable to refuse permission, on the grounds that the loss of the car park would lead to congestion and danger on the highway.
- 4.7.5 That is a simple and clear-cut theoretical case. In practice it might be more difficult to interpret and apply the proposed policy. It would be necessary to define more precisely the meaning of ‘recognised off-road parking spaces’, and I so **recommend**.

#### **4.8 Policy CDNP05.4 Accessible/Single Level Housing**

- 4.8.1 This policy aims to restrict the extent to which single level housing can be enlarged, as a means of preserving smaller dwellings suitable for older residents to move to when ‘downsizing’. Although MSDC (reference 15159) express concerns about the proposed restriction, the CDNP points out that the MSLP contains policies opposing the loss of small dwellings (defined as those with a gross external floorspace of up to 100 square metres) in the countryside. Whilst in this instance the policy would apply to dwellings within the BUAB, rather than outside it, and the size criterion would be 100 square metres of gross internal floorspace, it seems to me that the principle of seeking to preserve smaller dwellings has been established, and that paragraph 80 of the CDNP sets out a valid justification for doing so.
- 4.8.2 However, the trend of national policy is towards more generous permitted development rights, and the NPPF advises that the withdrawal of such rights by means of an Article 4 direction would only be justified where necessary to protect local amenity or the wellbeing of the area. It is clear that MSDC, as LPA, would not be prepared to seek such a direction in any event. I therefore **recommend** that the policy should be prefaced by the words ‘Subject to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification):’.

#### **4.9 Policy CDNP06 Control of New Developments**

- 4.9.1 In reaching my conclusions on the topic of housing, I have taken into account the economic activity and demand for housing generated by the Gatwick Diamond, cross-boundary considerations, and the various suggestions for additional policies and policy modifications put forward by objectors.
- 4.9.2 This is the key policy so far as the provision of new housing is concerned. It says that within the Crawley Down Settlement Area, planning permission will be granted for residential development, subject to a long list of criteria.

- 4.9.3 The term 'Settlement Area' appears here for the first and last time in the CDNP. It is not defined. It is not clear whether it means the same as 'Built Up Area', which is defined in both the MSLP and the CDNP. All the representations before me make the assumption that the two terms are synonymous, as did I upon my first reading of the CDNP. This is not surprising, as the following statement appears under the definition of 'Local Gap' on page 53 of the CDNP: 'CDNDP vision directs future development in the parish to the *settlement* of Crawley Down *as defined by the BUAB* and seeks to protect the essential countryside character of the defined settlement gap around Crawley Down' (my italics). However, in response to my questions, MSDC say that 'Settlement Area' means the whole of the Neighbourhood Plan Area (see the Appendix to this report). This is an important clarification, overcoming many of the objections, for reasons which I set out below. To avoid any possible misunderstanding, it is vital that the words 'Settlement Area' be replaced by the words 'Neighbourhood Plan Area', and I so **recommend**. I also **recommend** that the statement on page 53 quoted above be deleted, as it is misleading. If the policy is to apply to the whole Neighbourhood Plan Area, it would be prudent to preface it with the words 'Subject to the other policies of this Neighbourhood Plan ...' (I have in mind particularly Policy CDNP11, as proposed to be modified (see below)), and I so **recommend**.
- 4.9.4 There is no evidence to suggest that there are undiscovered potential housing sites of any great significance within the built up area of the village. None came forward from the 'call for sites', and, apart from the green spaces which the plan seeks to protect, there are no obvious undeveloped areas within the village. One representation (reference 20109) suggests that there may be space for 30 additional dwellings within the BUA. If 'Settlement Area' meant only the BUA, there seems little likelihood that the policy would bring forward new housing sites in significant numbers (references 11619, 15159, 16436, 20109, 20182 and 20190).
- 4.9.5 The principle of setting criteria for housing provision, rather than indicating specific land allocations, has been accepted for other neighbourhood plans. However, in order for such an approach to be effective in a tightly constrained area, the policy must allow development outside the BUA, otherwise it would be ineffective as a means of ensuring future housing development.
- 4.9.6 In the three years between 2012 and 2014, completions and planning permissions added 326 units to the housing stock of the village, an increase of 15%. The majority of these units are 3-5 bed properties (paragraph 42 of CDNP). A housing survey carried out by the Parish Council indicated that there is a local need for 64 smaller, one- or two-bed units, in the next ten years, or 109 units over the plan period (paragraph 44 of CDNP).
- 4.9.7 Since the start of the plan period, 116 new homes have been approved in the CDNP area, and a further 93 have been built or are under construction. Most of these are on 'windfall' sites. Few of these homes address the identified local need for one- or two-bed properties (paragraph 46 of CDNP).
- 4.9.8 All the land identified by the 'call for sites', and by the additional sites suggested in the representations which are before me, lies outside the BUA. The Parish Council decided that the CDNP should not identify any specific sites for housing, but should rely on policies which encourage windfall sites to be brought forward on a regular basis. However, for the reasons

set out above, if applicable only to the BUA, Policy CDNP06 seems unlikely to achieve that aim.

- 4.9.9 The emerging MSDP sets a housing provision figure of 11,050 homes in the plan period. 630 homes were completed between 2014 and 2015, there are 5,405 existing commitments, and 3,500 will be delivered in the strategic development around Burgess Hill, leaving a residual figure of 1,515. These sites are to be identified in the twenty neighbourhood plans which cover the district. If the neighbourhood plans do not deliver sufficient housing, MSDC will prepare a Site Allocations Development Plan Document.
- 4.9.10 The draft MSDP does not distribute the residual figure of 1,515 between the parishes. However, Crawley Down is classified by the emerging plan's settlement hierarchy as a 'larger village', the second highest of five categories. It is characterised as a local service centre with a good range of services and facilities. Although the CDNP says that the village is not well-served by public transport, in other respects it appears likely to be a more sustainable location than the smaller villages and hamlets of the district (reference 20190). It would therefore be very surprising if the village was not expected to take some share of the required housing sites over the plan period.
- 4.9.11 I recognise that the villagers are concerned about the level of new development which they are already experiencing, and its effect upon infrastructure, services, transport, the countryside, and the character of the village. However, the thrust of national policy suggests that they are unlikely to escape further development, for reasons which I shall set out below. The issue for the local community is whether they would prefer to guide that development themselves, or simply wait for it to be imposed by the decisions of others.
- 4.9.12 The NPPF says that neighbourhoods should plan positively to support local development, shaping and directing development in their area. Planning should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues.
- 4.9.13 It is clear, therefore, that even though the local plan may be out of date, the neighbourhood plan cannot reasonably rely upon that fact to avoid taking into account the prevailing trends, crucial issues, and national policy which are driving planning decisions at the present time. There seems little prospect that the MSDP, when it finally emerges, or the Site Allocations Development Plan Document, if one is prepared, will not require Crawley Down to provide some level of housing. This is explicitly recognised in the CDNP, at paragraph 29, where a detailed account is given of the discussions which have taken place between the Parish Council and MSDC.
- 4.9.14 Furthermore, even the Parish Council's own estimate of local housing need requires the provision of 64 one- or two-bed units in the next ten years, or 109 units over the plan period. At the very least, provision should be made for this requirement.
- 4.9.15 The CDNP, at pages 54 and 55, gives a reasoned and convincing description of its understanding of 'sustainable development' in the local context. At pages 53 and 54 it gives

a definition of 'remote' for the purposes of site assessment. Clearly, the closer to the BUA that new development is located, the more sustainable it is likely to be.

- 4.9.16 It appears to me that there are two ways in which suitable housing provision could be made. One would be to allocate specific areas of land to accommodate the required number of units. The other would be to modify Policy CDNP06 so that it read 'Within the Neighbourhood Plan Area planning permission will be granted for residential development subject to the following criteria:', as **recommended** in paragraph 4.9.3 above.
- 4.9.17 In my opinion the allocation of specific sites would require further public consultation to ensure openness and fairness. Modification of the policy wording, however, would in my view be acceptable, since individual sites would be tested against the criteria when they came forward as the subject of planning applications.
- 4.9.18 This policy is subject to various criteria. I shall consider them in turn below.
- 4.9.19 Criterion (a) says that the minimum standard for construction should be Code 4 of the Code for Sustainable Homes. However, the Code is being replaced by new Building Regulations and a new voluntary code, and the criterion is no longer appropriate. I **recommend** that this criterion should either be deleted, or reworded to accurately reflect current national policy.
- 4.9.20 For the reasons set out in paragraph 4.4.6 and section 4.5 above, I **recommend** that the following sentence should be added to criterion (b) of the policy: 'Where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character'.
- 4.9.21 Criterion (c) limits individual developments to 30 dwellings, and density to 25 per hectare. It is intended to ameliorate the impact of development on any particular part of the village, control the rate of growth and the impact upon community and infrastructure, and respect the existing character of the village. The criterion is criticised by several objectors (references 15159, 16436, 20182 and 20190) as being unnecessarily restrictive.
- 4.9.22 I understand the reasons for the criterion, although without some sort of phasing policy I am not convinced that it would in practice be an instrument for controlling the rate of growth. There would be nothing to prevent several smaller schemes coming forward in the same locality at the same time, and provided that there was still a demonstrable need for the housing, viewed against the five-year land supply at the time, the policy would not of itself give a reason for refusing planning permission for any individual scheme. Be that as it may, provided that the total housing development in the plan area made an appropriate contribution to meeting the housing needs of the district I see nothing in local or national policy which would prohibit the CDNP from setting these limits in line with the vision of the local community.
- 4.9.23 Criterion (g) says that gaps which provide views out of the village to surrounding countryside should be maintained. The location of such gaps is not identified within the plan. Given that, for the reasons set out above, it is likely that most new development will take place outside the BUA, and probably on the fringes of the village, it is likely that many sites would fall foul of this criterion (reference 20190). The most significant gaps could no doubt be defined and mapped. However, the ramifications would be so wide as to require

another round of public consultation. I therefore **recommend** that criterion (g) should be deleted.

- 4.9.24 Most of the BUA lies within the 7 km zone of influence of the Ashdown Forest Special Area of Conservation/Special Protection Area (SPA/SAC). Criterion (k) of Policy CDNP06 requires a habitats screening assessment for development which falls within the zone of influence. The District Council (reference 15159) say that this criterion is unnecessary as they are the competent authority in respect of the Habitats Regulations. There is a policy in the draft MSDP which requires development falling within the zone of influence to mitigate its effects by contributing to either Suitable Alternative Natural Greenspace (SANG) or Strategic Access Management and Monitoring (SAMM). There is no such policy in the MSLP as it pre-dates the Habitats Regulations. The District Council say that they are nevertheless currently collecting contributions. In my opinion it is reasonable for the CDNP to set out the mitigation requirements which affect development within the zone of influence. However, if this is to be done, it is important that the wording of the criterion should reflect accurately the wording of the draft MSDP policy. Natural England (reference 20070) support the principle of including such a policy in the CDNP.
- 4.9.25 I therefore **recommend** that criterion (k) should either be deleted, or replaced by wording which accurately reflects that of the draft policy in the MSDP.
- 4.9.26 I note that Policy CDNP14 covers similar ground. It is unnecessary for the same matter to be set out twice in this way. If criterion (k) is to be retained, then Policy CDNP14 should be deleted, and vice-versa.
- 4.9.27 A supporter of the plan (reference 6948) suggests that the zone of influence be extended to cover the whole of the Crawley Down 'settlement area' (undefined). However, there is no cogent evidence before me to justify treating Crawley Down differently from other settlements lying outside the 7km zone.
- 4.9.28 Criterion (m) requires that the need for the housing be justified. Objectors say (references 15159 and 20190) that housing need is justified at the district rather than the parish level. That may be so, but the NPPF stresses that neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. It therefore seems to me reasonable that the CDNP should require that there be a justification, however it has been determined, for housing which is proposed within the NP area. That is not the same thing as saying that all housing must meet a purely local need.
- 4.9.29 Criterion (r) sets out parking standards for new dwellings which are more onerous than those already adopted by the District Council (reference 15159). Whilst I recognise that parking is seen locally as a particularly important issue, I see no cogent evidence to justify setting a different standard in Crawley Down than in other parts of the district. I therefore **recommend** that the standards be brought into line with those applicable elsewhere in Mid Sussex.
- 4.9.30 Criterion (s) is designed to control the mix of dwelling sizes that should be provided on developments of six or more dwellings. Objectors (reference 15159 and 20190) consider this requirement to be too onerous and inflexible, pointing out that a similar policy was rejected by the Examiner of the West Hoathly Neighbourhood Plan. I have had regard to



that Examiner's Report, but each NP must be considered on its merits. The NPPF says that local planning authorities should identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; that is what the Parish Council, whilst not the LPA, is attempting to do in this instance, having regard to the findings of its village housing study. Without this type of policy, it is difficult to see how the Parish Council could ensure that the requirement for smaller dwellings could be met. However, the NPPF also says that such policies should be sufficiently flexible to take account of changing market conditions over time. Paragraph 46 of the CDNP recognises that the CDNP should be reviewed at three to five year intervals, and it seems to me that this would be an effective way to ensure flexibility. If the policy were not reviewed and kept up to date, it would no doubt be successfully challenged on appeal. For the above reasons I conclude that, in this instance, given the particular local characteristics of Crawley Down, the policy has appropriate regard to the Framework and meets the basic conditions.

#### **4.10 Policy CDNP07 Sustainable Drainage Systems**

4.10.1 Flooding is perceived as a significant issue within the village, and this policy seeks to address it. Thames Water (reference 20187) support the use of sustainable drainage systems and the sequential approach to managing surface water run-off. MSDC (reference 15159) consider that the policy is too specific, and that it might preclude alternative systems which follow industry best practice.

4.10.2 There is a large volume of national guidance (NPPF and PPG) on sustainable drainage systems, including non-statutory technical standards for sustainable drainage systems. It would be impractical and unnecessary to condense all this guidance into a single NP policy. In my view it would be preferable to set out the general principles which would apply to all development within the CDNP area.

4.10.3 I **recommend** that in order to have appropriate regard to national policy, CDNP07 should be reworded as follows: 'Development proposals will be expected to demonstrate that they include sustainable drainage systems designed to manage the risk of surface water flooding within their boundaries, and that they will not increase flood risk elsewhere in the Parish. Examples of sustainable drainage systems include permeable driveways and parking areas, water harvesting and storage features (rain/grey), green roofs and soakaways. The preferred hierarchy of managing surface water drainage from any development is:

- 1) infiltration measures;
- 2) attenuation and discharge to watercourses;
- 3) discharge to surface water only sewers.

Such measures should protect the amenity and security of other properties and should not adversely affect the water table and associated aquifers or ancient woodland.

Arrangements for the maintenance of drainage systems shall be required as a condition of planning permissions and these arrangements shall include details of who will manage and fund the maintenance for the lifetime of the development.'

#### **4.11 Policy CDNP08 Retention of Existing Employment Sites**

4.11.1 The title of this policy is misleading, as the policy also deals with proposals for the use of vernacular buildings for employment use. I **recommend** that the title should be changed, or that Part 3 should become a separate policy.

- 4.11.2 MSDC (reference 15159) say that the policy is more onerous than the NPPF or the MSLP, particularly in respect of the re-use of existing buildings. In particular they cite paragraph 28 of the NPPF (see the Appendix to this report). However, in my view the criteria against which proposals would be judged appear reasonable, and in my opinion the policy has appropriate regard to national policy.
- 4.11.3 I **recommend** that the policy should be prefaced by the words ‘Subject to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification):’.
- 4.11.4 For the reasons set out in paragraph 4.4.6 and section 4.5 above, I **recommend** that the following criterion should be added to Part 3 of the policy: ‘Where appropriate, special regard should be had to sustaining and enhancing the setting and features of heritage assets and the Areas of Townscape Character’.

#### **4.12 Policy CDNP11 Prevention of Coalescence**

- 4.12.1 Preservation of the rural setting of Crawley Down is particularly important to the villagers. This policy aims to meet that objective. However, there are fundamental problems with the policy as it stands, identified by MSDC and others (references 15159, 20190).
- 4.12.2 First of all, the BUAB is drawn tightly around the village, even excluding the most recent development. Almost any new development outside the BUA is likely to be perceived as detracting from the openness and character of the landscape to some degree, and to that extent Policy CDNP11 might be read as effectively prohibiting any new residential development, which is clearly out of step with national policy (see also 3.4.6 above).
- 4.12.3 Moreover, the policy, along with paragraphs 52, 55 and 65, refers to ‘local gaps’ between the village and neighbouring settlements. The terms ‘strategic gap’ and ‘local gap’ appear in the MSLP (Policies C2 and C3). Crawley Down lies within a strategic gap, but there are no local gaps around the village. The term ‘local gap’ is defined in the CDNP at page 53, but there is no map to show where these locally-defined ‘local gaps’ might be, other than Figure 8. However, Figure 8 shows an undifferentiated notation (not explained in the key) covering the whole of the area outside the BUAB. The reference to ‘local gaps’ in Policy CDNP11 is therefore inappropriate and confusing. Either (a) ‘local gaps’ are meant to cover the whole of the area outside the BUAB, in which case almost any development is likely to fall foul of the policy, or (b) ‘local gaps’ are meant to be more localised areas of land, protecting the most important open spaces outside the BUAB – in which case they need to be precisely identified on a map.
- 4.12.4 The emerging MSDP says that individual towns and villages in the District each have their own unique characteristics; that it is important that their separate identities should be maintained; and that when travelling between settlements people should have a sense that they have left one before arriving at the next.
- 4.12.5 The emerging MSDP says that, subject to other considerations, development will be permitted if it does not result in the coalescence of settlements, and would not have an unacceptably urbanising effect on the area between settlements. It goes on to say that Local Gaps can be identified in Neighbourhood Plans or a Site Allocations Development Plan Document, produced by the District Council, where there is robust evidence that

development within the Gap would individually or cumulatively result in coalescence and the loss of the separate identity and amenity of nearby settlements; evidence must demonstrate that existing local and national policies cannot provide the necessary protection.

4.12.6 It is clear, therefore, that MSDC envisage that neighbourhood plans will identify specific areas of land to be afforded special protection to prevent coalescence. Policy CDNP11, as it stands, does not do this, unless the whole of the area shown hatched on Figure 8 is intended to be a local gap. This would effectively ensure that any new development would take place well beyond the existing BUA, which is at odds with the general thrust of the policies in the CDNP.

4.12.7 In my opinion it would not be reasonable, at this late stage in the process, to modify the plan by identifying specific local gaps. The ramifications would be so wide as to require another round of public consultation. The policy could be deleted, but that would leave the vulnerable gaps between settlements without protection. If the policy is to remain, it must be reworded to allow for the possibility of development taking place outside the BUA, but within the area shown hatched on Figure 8.

4.12.8 I therefore **recommend** that Policy CDNP11 be modified as follows:

replace criterion (a) with the following words: 'it does not detract significantly from the openness and character of the landscape.'

replace criterion (c) with the following words: 'it does not significantly reduce the gaps between the village and the neighbouring settlements of Cophthorne, Felbridge, Turners Hill and Crawley.'

Unless the policy is really intended to apply only to the land shown in Figure 8, which seems unlikely, the reference to Figure 8 should be deleted from this policy. Alternatively, Figure 8 could be redrawn to show the whole of the Neighbourhood Plan Area. In any event, the meaning of the hatched areas needs to be explained in the Key.

4.12.9 Until such time as properly defined local gaps are identified, I **recommend** that all references to 'local gaps' should be deleted from the CDNP.

4.12.10 In the interests of accuracy I **recommend** that the BUAB be redrawn to incorporate the recent development on the fringes of the village (references 15159 and 20190).

#### **4.13 Policy CDNP12 Protect and Enhance Biodiversity**

4.13.1 MSDC (reference 15159) consider that criterion (f) might conflict with the preferred hierarchy of managing surface water drainage set out in Policy CDNP07 (as proposed to be modified). Be that as it may, I consider that, as it stands, criterion (f) lacks clarity and precision, and I **recommend** that it should be deleted.

#### **4.14 Policy CDNP13 Promoting Sustainable Transport**

4.14.1 MSDC (reference 15159), in line with the thrust of national policy, do not normally require a full transport assessment for developments of fewer than 50 houses. There is no cogent

evidence to suggest that traffic conditions in Crawley Down are so unusual as to require a much lower threshold than elsewhere in the district (reference 20190). I therefore **recommend** that in criterion (g), '6' should be replaced by '50'.

#### **4.15 Policy CDNP14 Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA)**

4.15.1 The policy, and supporting paragraph 97, should either be deleted or modified as set out in paragraphs 4.9.24 – 4.9.26 above.

### **5. Other matters**

5.1 It is suggested (reference 20190) that there should be a policy setting out a presumption in favour of sustainable development. However, the CDNP sets out the relevant principles at paragraphs 30-34 and pages 54-55, and it is unnecessary to restate national policy, word for word, in the NP.

5.2 Paragraph 29 of the CDNP is criticised for factual inaccuracy (reference 20190). I **recommend** that it be modified to reflect accurately the latest version of the draft MSDP.

5.3 Paragraph 59 of the CDNP is criticised for factual inaccuracy (reference 16436). I **recommend** that the second sentence be modified to read: 'Residents fear that planned large housing developments ... '.

### **6. Conclusions on the basic conditions**

6.1 Insofar as the strategic policies of the MSLP are still up to date, the CDNP is in general conformity with them. However, as demonstrated above, the critical housing and open land policies are out of date, and the CDNP must look to national policy for guidance. Had the application of Policy CDNP06 been confined to the BUA, as at first sight appeared possible, then the housing and open land policies of the CDNP would not have had appropriate regard to national policy, because they would not have positively supported local development to deliver the homes that the country needs.

6.2 MSDC have confirmed that Policy CDNP06 is intended to apply to the whole of the Neighbourhood Plan Area, and therefore, subject to the recommendations which I have made above, in my judgement the CDNP would have appropriate regard to national policy.

6.3 The CDNP clearly recognises the guiding principles of sustainable development, and incorporates them in the vision and objectives. I have made recommendations above, which, if implemented, would in my judgement enable the CDNP to contribute to the achievement of sustainable development.

6.4 There is no evidence before me to suggest that the CDNP is not compatible with EU obligations, including human rights requirements.

6.5 Provided that mitigation measures to protect the Ashdown Forest are implemented, the CDNP is not likely to have significant adverse effects on any 'European site' identified under the Conservation of Habitats and Species Regulations 2010. I have made recommendations above on the matter.

## **7. Formal recommendations**

- 7.1 I have concluded that, provided that the recommendations set out above are followed, the CDNP would meet the basic conditions.
- 7.2 I therefore recommend that the CDNP, as modified, should proceed to a referendum.
- 7.3 There is no evidence to suggest that the area of the referendum should be anything other than the Neighbourhood Plan Area, as defined by Figure 2 of the CDNP.

*Brian Dodd*

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14 August 2015

## APPENDIX

### QUESTIONS PUT BY THE EXAMINER TO MSDC, AND THEIR RESPONSE (IN ITALICS)

1. The term 'Settlement Area' appears in Policy CDNP06 for the first and last time in the CDNP. It is not defined. It is not clear whether it means the same as 'Built Up Area', which is defined in both the MSLP and the CDNP. Is it synonymous, and if not, to what area does it refer?

*Our understanding having confirmed this with the Qualifying Body is that the settlement area can be read as the whole Neighbourhood Plan Area.*

2. The emerging MSDP sets a housing provision figure of 11,050 homes in the plan period. 2,452 homes were built between 2014 and 2015, there are 5,504 existing commitments, and 3,500 will be delivered in the strategic development around Burgess Hill. According to the MSDP this leaves a residual figure of 1,801. However, this implies a target of 13,257. Is this because the original figure of 11,050 has been increased by 20% ( $11,050 \times 1.2 = 13,260$ )?

*The figures above for completions 2014/2015 (2,452) and the residual figure (1,801) are incorrect. The District Plan sets out:*

*Housing provision: 11,050*

*Completions 2014/2015: 630*

*Total housing commitments: 5,405*

*Strategic Development at Burgess Hill: 3,500*

*Residual amount (to be allocated through Neighbourhood Plans): 1,515  
=11,050.*

*Please also see the HEDNA and HEDNA update which is available here:  
<http://www.midsussex.gov.uk/planning/8264.htm>.*

3. The 1,801 residual sites are to be identified in the twenty neighbourhood plans which cover the district. If the neighbourhood plans do not deliver sufficient housing, MSDC will prepare a Site Allocations Development Plan Document.

*The residual figure should be corrected to 1,515. The District Council will monitor the level of housing coming forward through the Neighbourhood Plan process and will conduct a Site Allocations Development Plan Document if required.*

4. Are paragraphs 2 and 3 above an accurate summary of the emerging proposals?

*As per corrections.*

5. The CDNP says (paragraph 46) that since the start of the plan period, 116 new homes have been approved in the CDNP area, and a further 93 have been built or are under construction. Are these 209 included in the 2,452 referred to in paragraph 2 above?

*The District Plan covers the period 2014-2031. Any sites that were approved within the CDNP area from April 2014 onwards, or are extant permissions/allocations, will be included within the 'Commitments' figure of 5,405. Any dwellings that have been built between April 2014 and March 2015 will be included within the 'Completions 2014/2015' figure of 630.*

6. There is a policy in the draft MSDP which requires development falling within the Ashdown Forest zone of influence to mitigate its effects by contributing to either Suitable Alternative Natural

Greenspace (SANG) or Strategic Access Management and Monitoring (SAMM). There does not appear to be such a policy in the MSLP. Is this correct?

*The 2004 Local Plan predates the Habitats Regulations which came into force in 2010. Details of the SANG and SAMM strategy are detailed on our website here: <http://www.midsussex.gov.uk/8716.htm>.*

7. The Council recommend that Policy CDNP07 should be reworded along the following lines:  
'Development proposals will be expected to demonstrate that they include sustainable drainage systems designed to manage the risk of surface water flooding within their boundaries, and that they will not increase flood risk elsewhere in the Parish. Examples of sustainable drainage systems include permeable driveways and parking areas, water harvesting and storage features (rain/grey), green roofs and soakaways. The preferred hierarchy of managing surface water drainage from any development is:
- 1) infiltration measures;
  - 2) attenuation and discharge to watercourses;
  - 3) discharge to surface water only sewers.

Such measures should protect the amenity and security of other properties and should not adversely affect the water table and associated aquifers or ancient woodland. Arrangements for the maintenance of drainage systems shall be required as a condition of planning permissions and these arrangements shall include details of who will manage and fund the maintenance for the lifetime of the development.' This modification omits all references to culverts, open water courses and flood attenuation areas. Is this deliberate, and if so why has it been done? Do the Parish Council agree with MSDC's proposed modification?

*The Parish Council would like to go substantially further in relation to drainage however the Senior Drainage Officer at Mid Sussex District Council raised some concerns with the policy as worded. It was the opinion of the Drainage Officer that the original wording would not meet the NPPF and the Planning Practice Guidance on Flood Risk and Coastal Change. The Drainage Officer recommended best practice as outlined in the CIRIA SUDS Manual be followed. Concern was raised about storage lagoons and attenuation tanks not being able to outfall anywhere. The officer was also concerned as to the keeping of the system with the developer on handover of the properties and how this could be enforced. Best practice indicates culverts should be avoided unless absolutely necessary.*

8. The Council say that Policy CDNP08 is more onerous than the NPPF or the MSLP, particularly in respect of the re-use of existing buildings. However, they do not explain where the disparities occur. Could they elucidate? Is there also a conflict with permitted development rights?

*There is some concern with the potential conflict with permitted development rights. It would also seem to us that if amenity of neighbouring properties can be safeguarded then a determination of an application should be positive. There is also some concern with the prescriptive nature of some of the criteria. It would in our view benefit the policy to be more succinct and emphasize the importance of neighbouring amenity whilst being supportive of the reuse of brownfield land. We would also draw on Paragraph 28 of the NPPF in this respect.*

9. Why do the Council wish to remove criterion (f) from Policy CDNP12?

*Criterion (f) in our view potentially conflicts with the preferred hierarchy of managing surface water drainage as outlined in our response to CDNP07, particularly number 2 of that hierarchy. Primarily the concern is in relation to the second part of criterion (f) and the restrictive use and their discharging.*