

# **BURGESS HILL NEIGHBOURHOOD DEVELOPMENT PLAN 2014-2035**

**SUBMISSION VERSION**

**A Report to Mid Sussex District Council of the  
Examination into the Burgess Hill Neighbourhood  
Development Plan**

by Independent Examiner, Peter Biggers BSc Hons MRTPI

*Argyle Planning Consultancy LTD  
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## **Summary and Overall Recommendation**

0.1 Following my examination of the Burgess Hill Neighbourhood Plan (BHPN), including a site visit to the Neighbourhood Area on 19 June 2015 and Public Hearing, it is my view that the BHPN reflects the views of the community and sets out a clear vision and suite of policies and proposals for the Neighbourhood Area.

0.2 However my report highlights a number of areas where I consider the wording of the plan as submitted is not wholly in accordance with one or more of the basic conditions. In particular there are tensions with National policy and guidance, and in a small number of cases with the requirement to be in general conformity with the strategic policies of the Development Plan – in this case in the main the Mid Sussex Local Plan.

0.3 I have therefore recommended a number of modifications to the Plan which should be made before the plan can proceed to Referendum. These are intended to ensure that first and foremost the Plan can meet the Basic Conditions.

0.4 In proposing the modifications I have tried to ensure that the integrity and value of the BHPN and its vision is retained and that the intention of neighbourhood planning, where the community's wishes should be central to the plan, is honoured.

0.5 It is possible that Burgess Hill Town Council as qualifying body will be disappointed with the findings. However by its nature the examination has to be rigorous. Any criticism is not at all to undermine the huge community effort that has gone into the plan. Rather the purpose of the examination is to ensure that the Neighbourhood Plan is as robust as possible and that it can play its part in planning decisions and managing change in the future in an effective way.

0.6 In addition to the recommended modifications it should also be noted that there will be a number of consequential changes to the text and referencing that will be needed as a result of making the modifications. It will also be necessary to ensure all document referencing is up to date. For example all referencing to the withdrawn Mid Sussex District Plan will need to be updated as the expectation is that the plan will be resubmitted in the autumn. I have not highlighted every one of these changes, but these are matters that will need remedying in the final version of the Plan.

0.7 Subject to the recommended modifications in the report being completed I am satisfied that the BHPN:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- will contribute to the achievement of sustainable development;
- is in general conformity with the strategic policies of the development plan for the area;
- does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

- is not likely to have a significant effect on a European Site either alone or in combination with other plans or projects.

0.8 Subject to the recommended modifications, the BHPN also complies with the legal requirements set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

0.9 With the modifications in place the Burgess Hill Neighbourhood Plan will meet the Basic Conditions and can proceed to a Referendum. When that takes place I also recommend that the Burgess Hill Town Council administrative boundary is taken as the area for the Referendum allowing those not within the Neighbourhood Area but within Burgess Hill and using its facilities to participate.

**Peter Biggers  
19 August 2015  
Argyle Planning Consultancy Ltd**

## **1. Introduction**

### **1.1 Background Context**

1.1.1 This Report provides the findings of the Examination into the Burgess Hill Neighbourhood Plan (referred to as the BHNP throughout this report).

1.1.2 The BHNP was produced by the Burgess Hill Town Council (BHTC) in consultation with interested parties and local stakeholders.

1.1.3 Burgess Hill Neighbourhood Area in the main equates to the built up area boundary of the town of Burgess Hill as defined in the Mid Sussex Local Plan 2004.

1.1.4 From its beginnings as a settlement based around the brick and tile industry, Burgess Hill grew through the centuries to become a town of around 29,000 people at the turn of the 21st century. Over the last 50 years the town has been the subject of a number of major developments including the Victoria and Sheddingdean Industrial Estates, the Martlets and Market Place shopping centres and large areas of new housing particularly in the west of the town which brought a number of town-wide benefits including a new leisure centre, a business park and improved strategic road infrastructure. Expansion of the town is underway again with development planned in the north and east much of which is outside the administrative boundary of the Town Council but the Council wishes to ensure, through the Neighbourhood Plan, that Burgess Hill has the facilities and infrastructure to provide for this further expansion.

1.1.5 This Examiner's Report provides a recommendation as to whether or not the BHNP should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes cast in favour of it, then the BHNP would be '**made**' by Mid Sussex District Council. The BHNP would then be used to determine planning applications and guide planning decisions in the Burgess Hill Neighbourhood Area.

### **1.2 Appointment of the Independent Examiner**

1.2.1 I was appointed by Mid Sussex District Council, with the consent of BHTC, to conduct the examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the Local Authority. I do not have any interest in any land that may be affected by the BHNP nor do I have any professional commissions in the area currently and I possess appropriate qualifications and experience. I have planning and development experience, gained over 30 years across the public and private planning sectors and am a member of the Royal Town Planning Institute and a member of the National Panel of Independent Examiners Referral Service run by the Royal Institute of Chartered Surveyors.

### **1.3 Role of the Independent Examiner**

1.3.1 It is the role of the Independent Examiner to consider whether a neighbourhood plan

meets the “Basic Conditions.” The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (TCPA) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA). In order to meet the Basic Conditions<sup>\*</sup>, the making of the BHP must:

1. Have regard to national policies and advice contained in guidance issued by the Secretary of State;
2. Contribute to the achievement of sustainable development;
3. Be in general conformity with the strategic policies of the development plan (see Development Plan Status below) for the area.
4. Not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.

1.3.2 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) sets out a further basic condition for Neighbourhood Plans in addition to those set out in primary legislation and referred to in the paragraph above - that is:

5. The making of the Neighbourhood Plan is not likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.

*\* NB Two other matters relating to the desirability of preserving or enhancing listed buildings and conservation areas are also included in the basic conditions but as these only concern neighbourhood development orders and not neighbourhood plans they are not included in this report.*

1.3.3 In examining the Plan, I am also required, under the legislation to establish whether the prescribed conditions are met namely:

- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body as defined in Section 61F of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the PCPA.
- The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (the Plan must specify the period to which it has effect, must not include provisions relating to ‘excluded development’, and must not relate to more than one Neighbourhood Area) and
- The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of the PCPA Section 38A.

1.3.4 I have examined the BHP against the Basic Conditions above and, as Independent Examiner, I must make one of the following recommendations:

- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;

- b)** that the Plan once modified to meet all relevant legal requirements should proceed to Referendum;
- c)** that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

1.3.5 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Burgess Hill Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

1.3.6 The role of the independent examiner is not expressly to comment on whether the plan is sound or how the plan could be improved but rather to focus on the compliance with the basic conditions.

## **2. The Examination Process**

2.1 It is a general rule that neighbourhood plan examinations should be held without a public hearing ie by written representations only. However, according to the legislation, when the Examiner considers it necessary to ensure adequate examination of an issue, or to ensure a person has a fair chance to put a case, a public hearing may be held.

2.2 With regard to the above and on consideration of all the evidence before me, whilst I confirm that in respect of much of the plan I have considered only written representations, I decided that it was necessary for there to be a Burgess Hill Neighbourhood Plan Hearing (referred to as the Hearing).

2.3 The Hearing was advertised in the local press and on the Burgess Hill Town Council and Mid Sussex District Council Websites. A number of parties were invited to speak and the Hearing itself was open to those making representations on the plan and to the public. It took place on Friday 19 June 2015 and was held at the Mid Sussex District Council Chamber at Haywards Heath, lasting from 13.00 until 17.30.

2.4 A neighbourhood plan public hearing is, essentially, to provide for the Independent Examiner to further consider matters against the Basic Conditions, referred to in section 1.4 of this report. It is specific to neighbourhood planning and is different to a planning inquiry, an examination in public or a planning appeal hearing. Invited parties were asked to consider specific parts of the Plan in more depth and to clarify points made during the Regulation 16 Publicity Consultation.

2.5 The reason I considered that a hearing was necessary was specifically in response to substantive objections raised that the Neighbourhood Plan policies and proposals would not meet the basic conditions, would not be in accordance with the requirements of the development plan in respect of the quantity of housing and presented proposals for town centre regeneration that were not wholly supported. I also took the opportunity of the hearing to clarify a number of more minor matters relating to green space and

recreation proposals.

2.6 In addition to the Town Council and Mid Sussex District Council 8 other participants took part directly in the round table discussion representing principally developers (4) and residents(3). Historic England was also represented. The hearing was observed by 25 members of the public. Appendix 1 sets out the programme and discussion topics considered during the hearing and notes of the discussion are available separately via the following link:

[http://www.midsussex.gov.uk/media/Minutes\\_of\\_Burgess\\_Hill\\_Neighbourhood\\_Plan\\_Examination\\_Hearing.pdf](http://www.midsussex.gov.uk/media/Minutes_of_Burgess_Hill_Neighbourhood_Plan_Examination_Hearing.pdf)

My analysis on the hearing matters is discussed in the relevant section of the plan below.

2.7 I am grateful to both the Town Council and Mid Sussex District Council for their assistance in arranging the hearing and for helping the hearing to run smoothly. I wish to record my thanks to the invited participants for their assistance to me in answering my questions and to the courtesy and professionalism extended to me and each other during the hearing.

2.8 Notwithstanding the fact that the hearing allowed these matters to be discussed in more depth, I confirm that *all* representations to the Burgess Hill Neighbourhood Plan at the Reg 16 stage have been taken into account in undertaking this examination. A representation is not more or less valid than another simply because it has been considered in further detail at a hearing.

2.9 I undertook an accompanied site visit around the Neighbourhood Area on the morning of the hearing on 19 June 2015.

2.10 In undertaking this examination, I have considered each of the following documents in addition to the Submission Version of the Burgess Hill Neighbourhood Plan dated January 2015:

1. National Planning Policy Framework (The Framework) (2012)
2. The National Planning Practice Guidance
3. Town and Country Planning Act 1990 (as amended)
4. The Planning and Compulsory Purchase Act 2004 (as amended)
5. The Localism Act (2011)
6. The Neighbourhood Planning (General) Regulations (2012) (as amended)
7. Mid Sussex Local Plan 2004
8. Mid Sussex District Plan 2015
9. Burgess Hill Neighbourhood Plan Basic Conditions Statement Jan 2015
10. Burgess Hill Neighbourhood Plan Statement of Consultation Jan 2015
11. Burgess Hill Neighbourhood Development Plan Sustainability Appraisal Report Jan 2015
12. Burgess Hill Habitats Regulation Assessment Screening Report Feb 2015
13. Burgess Hill Neighbourhood Area Map and Designation Application Statement

14. Burgess Hill Neighbourhood Development Plan Evidence Base Summary  
Document Jan 2015

Also:

15. Representations received during the Regulation 16 publicity period post submission  
ending 26 March 2015

### **3. Public Consultation**

#### **3.1 Background**

3.1.1 An accessible and comprehensive approach to public consultation is the best way to ensure that a neighbourhood plan reflects the needs, views and priorities of the local community.

3.1.2 BHTC submitted a Consultation Statement, as required by regulation 15 of the Neighbourhood Planning (General) Regulations 2012, to Mid Sussex District Council in January 2015. This document sets out who was consulted and how, together with a brief outline on the outcome of the consultation and what action was taken in response to representations received.

3.1.3 Public consultation on the BHNP commenced with an initial consultation in summer 2012. This was followed by various consultation stages, culminating in the formal, publicity stage, the six week consultation period post submission of the plan from 12 February to 26 March 2015 which resulted in 24 consultation responses. These are considered in section 6 below.

#### **3.2 Burgess Hill Neighbourhood Plan Consultation**

3.2.1 The initial consultation took place over a substantial period from summer 2012 into 2013. BHTC used the 6 ward structure of the town with a lead councillor from each ward meeting regularly to ensure information about consultations were disseminated and that involvement was wide spread. The communication methods used involved articles in the 'About Town' publication and leaflets delivered to every household, press releases, website, exhibitions, targeted meetings and drop-ins. A database of all consultees was set up. Early consultation at ward level allowed initial ideas and suggestions to be fed in and led to focused discussions on 4 key study areas - town centre, Leylands Park, Victoria Road and the Keymer Tile site. A drop-in in November 2012 (124 attending) allowed BHTC to present the proposed strategy for the plan. A further event in March 2013 (273 attending) focussed on the study areas and cross town policies. In addition to these open meetings a series of focused meetings with key groups were undertaken to establish the plan approach. I am satisfied that the early engagement has given a clear community direction to the plan.

3.2.3 The pre-submission consultation involved a 6 week period from 1 March 2014 to 14 April 2014. The BHNP was published alongside the Sustainability Appraisal and the Evidence Base Summary documents. The consultation involved a detailed insert in the

'About Town' publication, press releases, local ward and neighbourhood publications, website, Facebook pages, notice boards, and targeted leaflet drops. A staffed drop-in exhibition was held on 22 March 2014 and a series of ward based meetings held during March and April 2014. During the period 378 people attended events and 160 submissions were made in writing. These were analysed and responded too and responses agreed by BHTC on 21 July 2014. Based on this assessment agreed changes were made to the plan for submission.

3.2.4 Having reviewed the consultation statement I am satisfied that an effective consultation process has been operating throughout the preparation of the plan.

3.2.5 The Neighbourhood Plan regulations are part and parcel of the 1st Basic Condition and regulation 15 (2) sets out clearly what the consultation statement should include. I am satisfied that the statement and its appendices are compliant with Reg 15 in demonstrating who was consulted, how they were consulted, what the main issues and concerns were and what action has been taken in response to these to arrive at the submission draft plan.

#### **4. Preparation of the Plan and Legislative Requirements**

In terms of the procedural tests set out in paragraph 1.3.3 of this report my findings are as follows:

##### **4.1 Qualifying body**

4.1.1 Burgess Hill Town Council is the duly elected lower tier council and is the appropriate qualifying body to prepare a neighbourhood plan for Burgess Hill.

4.1.2 I am satisfied that the requirements set out in the Localism Act (2011) and in Section 61F(5) of the Town and Country Planning Act 1990 (as amended) and in regulations 8, 9 and 10 of the Neighbourhood Planning (General) Regulations 2012 have been met. The Town Council is therefore the *qualifying body* for leading the BHPN.

##### **4.2 Plan area**

4.2.1 The Burgess Hill Neighbourhood Area as designated largely coincides with the boundary of the Burgess Hill built up area as defined in the Mid Sussex Local Plan.

4.2.2 An application was made by the BHTC on 9 May 2012 and amended 16 May 2012 to designate the Burgess Hill Neighbourhood Area. This was approved by Mid Sussex District Council on 16 July 2012 following consultation and, with a small adjustment to include the whole of Leylands Ward because of the development proposed in that area, the Neighbourhood Area was designated.

4.2.3 This satisfied the requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended) and regulations 5, 6 and 7 of the Neighbourhood Planning (General) Regulations 2012.

4.2.4 Representations were made at the Reg 16 publicity stage that the neighbourhood area was drawn too tightly on the existing built up area and excluded land within the BHTC area which is already proposed for development and land that could provide for development to help meet housing provision set out in development plan requirements.

4.2.5 This matter was discussed at the Hearing when the objectors clarified their request for a change to the plan area. However the only matter before me in this examination is to be satisfied that the designation of the neighbourhood area has taken place in accordance with Regulations 5-7. As stated above I am satisfied that this has been done and there is no evidence to suggest that the neighbourhood area designation did not go through due process. The regulations include the requirement for consultation on the proposed neighbourhood area and it has been confirmed that this was duly carried out. It was at that stage that any objections to the neighbourhood area should have been raised and addressed and I cannot now recommend that the area is modified.

4.2.6 It is open to the Qualifying Body to seek to amend the neighbourhood area by applying again to the District Council but to do so at this stage in the neighbourhood planning process would put everything on hold and would require BHTC to go back to the pre-submission consultation stage with a plan that sets out a revised area and proposals for it. BHTC made it clear at the Hearing that it did not wish to do this and would reconsider the matter of the Neighbourhood Area as and when the BHPN is reviewed in the future.

#### 4.3 Plan period

4.3.1 A neighbourhood plan must specify the period during which it is to have effect. The BHPN clearly states on its title page and in the introductory sections that it covers the period to 2035.

4.3.2 This matter was also the subject of representations at the Regulation 16 stage that the plan period did not accord with the development plan period and therefore it would be difficult to ensure that the BHPN and MSDP and the evidence base aligned in the future.

4.3.3 This was a matter of discussion at the hearing and BHTC indicated that the period had been chosen to allow a 20 year period for the plan which reflected the fact that the Town Strategy also covered a 20 year period. However as the timeframe of the Town Strategy is not necessarily in accordance with the BHPN either this does not seem a particularly compelling reason. MSDC at the hearing were not particularly concerned regarding the timescale as the reality is that the plan will be reviewed well before the

end of the period anyway. However given the advice of the NPPF that the neighbourhood plan should align with the development plan and in particular given the spirit of paragraph 184 I can see no logical reason not to adopt 2031 as the end of the plan period not least because it will ensure timings coincide to allow information required for monitoring and review to be drawn from a common evidence base.

**Recommendation 1- Amend the period for the neighbourhood plan to align with the emerging District Plan ie 2031.**

**Consequential amendments will need to be made throughout the plan where there are references to 2035 and a 20 year period.**

#### 4.4 Excluded development

4.4.1 The Plan does not include policies or proposals that relate to any of the categories of excluded development. It does however in its submitted form include policy references that apply to land outside the Neighbourhood Area. This matter is discussed in more detail in section 6 of the report and subject to the recommended modifications to remove these the plan will meet requirements in this respect.

#### 4.5 Development and use of land

4.5.1 The Neighbourhood Plan should only contain policies relating to development and use of land. Subject to the modifications proposed in section 6 the BHNP policies would be compliant with this and all relate to development and the use of land.

#### 4.6 Plan Publication Following Submission

4.6.1 Mid Sussex District Council undertook a final validation check of the Burgess Hill Neighbourhood Plan on submission in January 2015 and were satisfied that the Plan could proceed to be publicised under Regulation 16 and proceed to this independent examination under regulation 17.

### **5. The Basic Conditions**

#### 5.1 National policy and advice

5.1.1 The main document that sets out national policy is the *National Planning Policy Framework* (the 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 and plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan.

5.1.2 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.

5.1.3 The NPPF indicates that plans should provide a framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.

5.1.4 National advice on planning is set out in the *Planning Practice Guidance* (PPG) which includes specific advice regarding neighbourhood plans.

5.1.5 I consider the extent to which the plan meets this Basic Condition No 1 in section 6 below.

## 5.2 Sustainable development

5.2.1 A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole constitutes the Government's view of what sustainable development means in practice for planning. The NPPF explains that there are three dimensions to sustainable development: economic, social and environmental.

5.2.2 Whilst there is no legal requirement to do so, a Sustainability Appraisal (SA) was carried out in respect of the BHNP, in conjunction with the Strategic Environmental Assessment. A scoping report was subject to consultation in summer 2012 and subject to some minor amendments to the sustainability objectives the Statutory Consultees were satisfied that the SA proposed was adequate. The SA was carried out in 2013 and the SA Report consulted on in early 2014. A final version was consulted on alongside the Submission Plan at the Publicity stage.

5.2.3 The SA presents a clear assessment of how the Plan's preferred policy options perform against 15 sustainability objectives which included both SEA recommended objectives and objectives relating to economic and social well-being. The findings from the first stage of appraisal on the draft plan were used in developing the submission draft plan. In general I am satisfied that the sustainability appraisal process carried out was a robust one and overall the results support the BHNP as a sustainable plan but I consider detailed points regarding the plan's ability to meet this Basic Condition No 2 in section 6 below.

## 5.3 Conformity with the Development Plan

5.3.1 The adopted development plan in force for Mid Sussex remains the Mid Sussex Local Plan (MSLP). Therefore in terms of assessing the plan against Basic Condition No 3 it is the MSLP that must be used. However this was adopted in 2004 and is now quite dated – preceding the NPPF. If there are circumstances where a MSLP policy is no longer consistent with the NPPF and a conformity issue arises with the BHNP I will therefore attach greater weight to the degree of conformity with the NPPF and take a flexible approach to the MSLP. The test in Basic Condition No 3 is after all **general**

**conformity** with strategic policies of the adopted plan.

5.3.2 The PPG explains that NDPs can be developed before or at the same time as the LPA is producing its local plan. The MSLP's replacement, the Mid Sussex District Plan (MSDP), is well advanced and will shortly be resubmitted for examination. In view of this the Town Council in consultation with the District Council has collaborated, as advised in the PPG, to align the BHNP with the policies and proposals of the emerging MSDP Submission Version to minimize the possibility of any conflict in the future. I understand why in the circumstances it is reasonable and practical to seek to align the BHNP with the MSDP but the BHNP cannot at this stage be tested for general conformity against the policies in the emerging MSDP.

5.3.3 It is however a requirement of the NPPF that plans are based on sound current reasoning and evidence and I will therefore be considering as part of my assessment against Basic Condition No 1 the extent to which the BHNP has taken account of the most recent evidence available which will be the evidence base of the MSDP.

5.3.4 The judicial review of the legal challenge to the Tattenhall Neighbourhood Plan made by Barrett Homes and Wainhomes Developments and the decision by senior High Court judge, Mr Justice Supperstone in 2014, clarifies and confirms the approach that must be taken in respect of Basic Condition No 3 in respect of emerging plans.

5.3.5 Mid Sussex District Council has confirmed that it has no concerns over the general conformity of the BHNP with the strategic policies of the Mid Sussex Local Plan 2004. I have no reason to disagree subject to my consideration in further detail in Section 6 below on issues of general conformity with the plan.

#### 5.4 European Union (EU) Obligations

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

##### Strategic Environment Assessment and Habitat Regulations Assessment

5.4.2 Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment has a bearing on neighbourhood plans. This Directive is often referred to as the Strategic Environment Assessment (SEA) Directive. Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora and Directive 2009/147/EC on the conservation of wild birds (often referred to as the Habitats and Wild Birds Directives respectively) aim to protect and improve Europe's most important habitats and species and can have a bearing on neighbourhood plans.

5.4.3 As stated above the Sustainability Appraisal of the BHNP has progressed in tandem with the preparation of the plan and the scope was deliberately designed to meet the requirements of the SEA Directive in view of the development proposals in the plan. This was agreed by the statutory consultees at the scoping stage. The outcome of the SA

indicates that the plan is broadly compliant to the requirements of the Directive and I have no reason to disagree.

5.4.4 In addition to the SA of the BHNP referred to above a screening opinion in respect of the need for Habitat Regulation Assessment (HRA) was prepared by the District Council in 2014 in consultation with the statutory bodies. This concluded that there would be no need to carry out an HRA. The Special Protection Area and Special Area for Conservation at Ashdown Forest is the nearest European site to the Neighbourhood Area. However the Neighbourhood Area is outside of the 7 Km zone of influence established for the forest.

5.4.5 The test in the additional basic condition is that the making of the neighbourhood development plan is “not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) either alone or in combination with other plans or projects.” Given the nature and content of the Neighbourhood Plan, the limited scale of development it promotes and the distance from Ashdown Forest it seems unlikely there would be any direct significant effect. Any in-combination effects with other strategic site allocations closer to the forest would already be covered by mitigation measures established for these areas. As a precaution the HRA Screening Opinion points out that any residential development arising from the BHNP would in any event be subject to the recommendations of the HRA on the emerging MSDP. I am satisfied therefore that there would be no significant effects as a result of the BHNP and no bodies commenting on the plan have taken a contrary view.

#### *European Convention on Human Rights (ECHR)*

5.4.6 The Human Rights Act encapsulates the Convention and its articles into UK Law.

5.4.7 In respect of Article 1 - the right of everyone to the peaceful enjoyment of possessions; although the BHNP includes policies that would restrict development rights, this does not have a greater impact than the general restrictions on development rights provided for in national law. The restriction of development rights inherent in the UK's statutory planning system is demonstrably in the public interest by ensuring that land is used in the most sustainable way, avoiding or mitigating adverse impacts on the environment, community and economy.

5.4.8 In respect of Article 6 -the right to a fair and public hearing in determination of an individual's rights and obligations - the process for preparing the BHNP is fully compatible with this Article, allowing for extensive consultation on its proposals at various stages, and this independent examination process including the public hearing held on 19 June 2015.

5.4.9 In respect of Article 12 - the enjoyment of rights and freedoms without discrimination on any ground, the policies and proposals of the BHNP have been developed in full consultation with the community and wider stakeholders to produce as inclusive a document as possible. Although no specific Equalities Impact Assessment has been carried out the core objectives (CO3) refers to ensuring that all sections of the community in Burgess Hill have appropriate access to community services. I am satisfied that across

the plan as a whole no sectors of the community are discriminated against. The policies together would generally have public benefits and encourage the social sustainability of the neighbourhood.

5.4.10 I am satisfied therefore that the Plan does not breach, and is otherwise compatible with, the ECHR.

*Other EU obligations*

5.4.11 I am not aware of any other European Directives which apply to this particular Neighbourhood Plan and no representations at pre or post submission stage have drawn any others to my attention. Taking all of the above into account, I am satisfied that the BHPN is compatible with EU obligations and therefore with Basic Conditions Nos 4 and 5.

## **6. The Neighbourhood Plan – Assessment**

The Neighbourhood Plan is considered against the Basic Conditions in this section of my Report following the structure and headings in the Plan. Given my findings in section 5 above that the plan as a whole is compliant with Basic Conditions Nos 4 and 5, this section largely focusses on Basic Conditions No 1 (Compliance with National Policy), No 2 (Delivery of Sustainable Development) and No 3 (General Conformity with the Development Plan).

Where modifications are recommended, they are presented and clearly marked as such and highlighted in bold print, with any proposed new wording in italics.

### **6.0 The General Form of the Plan**

6.0.1 The structure of the BHNP is broadly clear with sections distinguishing between the policies themselves, and their justification. Each policy is accompanied by some supporting text and I suggest in the topic sections below where a greater degree of justification is required.

6.0.2 Throughout the plan there are a number of maps and plans following many of the policies illustrating proposals. At present the titling, and on occasion the policy wording (eg Policy S1), leaves the status of the plans unclear. It was confirmed by BHTC at the hearing in response to questioning that these maps were intended to be illustrative only. To fully comply with Basic Condition No 1 and advice that plans should be clear and unambiguous, if illustrative mapping or illustrations are to be used to help demonstrate proposal concepts they should be described as such.

**Recommendation 2 – Insert the words “*Illustrative Proposals*” into each of the map titles e.g “*Map 5 – The Civic and Cultural Quarter – Illustrative Proposals*”.**

6.0.3 With this modification in place the general form of the plan will comply with the Basic Conditions.

### **6.1 Section 1 - Introduction**

6.1.1 The first section of the BHNP sets out the contextual information about the neighbourhood planning process and how it has been developed in partnership with the local communities in the plan area. It finishes at paragraph 1.6 with a summary of the key messages that have evolved from the community and it is this section that raises some procedural matters.

6.1.2 Most of section 1.6 is inset in a text box shaded in the same manner as the policies later in the plan and the wording reads like a policy statement. This is ambiguous as clearly from the statements at the public hearing from BHTC this was not the intention. The text itself raises further difficulties in that it states that the plan must support the protection of the

countryside to the south and south east of the town when, as referred to above at section 4, this is outside the neighbourhood area and there is no mechanism by which the plan can do this. Although this section is supposedly reporting community aspiration the detailed wording and the treatment of the text implies a higher status to the statements than would appear is intended.

6.1.3 The NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. It would be clearer and more consistent with the requirement, without the potential for confusion as to what constituted policy, if the text at Paragraph 1.6 was clarified as follows:

**Recommendation 3:**

- Remove the text box and pink shading from paragraph 1.6. Rework the start of paragraph 1.6 to read : “*The key issues the community sought to see reflected in the neighbourhood plan are*” (NB See also Recommendation 6):-
- Rework the penultimate entry regarding protection of the countryside to read: “*The Neighbourhood Plan should recognise the strategic context set by the MSLP and emerging MSDP including the protection of countryside to the south and south east of the town*”
- Remove footnote 2
- Rework the final entry to read:  
“*The plan should take account of the implications for the town of development set out in the Burgess Hill Town Wide Strategy*”.

6.1.4 With these modifications in place Basic Condition No 1 will be satisfied and it will be clearer that the basis of 1.6 is simply reporting what the community is seeking to achieve.

**6.2: Section 2 - The Neighbourhood Plan Strategy**

6.2.1 Section 2 of the BHNP sets out the strategic context for the neighbourhood plan and concludes with the approach the plan proposes to take towards housing provision.

6.2.2 The section refers to the emerging MSDP the need for which, as stated above, is understood and is in line with the advice in the NPPF and the PPG that neighbourhood plans being prepared in advance of local plans should pay particular regard to the evidence base and direction of travel for the emerging plan. However, in the light of the fact that the MSDP’s resubmission following withdrawal is expected before the BHNP reaches referendum, the whole of section 2.9 - 2.12 will need to be revised to avoid confusion and misunderstanding between plans.

6.2.3 Specifically in respect of paragraph 2.11, again the BHNP cannot say that it “*strongly protects the countryside to the west and south of Burgess Hill*” as these areas are outside the neighbourhood area. The plan has no locus to do this and if the text is not adjusted the prescribed conditions would not be met. For the same reason I consider the section at

paragraph 2.20 and Map 2 to be misleading as it is not entirely clear that this is not the spatial vision of the BHPN but the spatial strategic context set by the MSDP. To fully comply with basic condition No 1 the following modifications are necessary:

**Recommendation 4**

**Amend paragraph 2.11 second sentence to read - “In the light .....development areas *the emerging District Plan* strongly protects the countryside to the west and south of Burgess Hill”**

**Amend title and text to paragraph 2.20 to read:**

**“Strategic Spatial Context**

**Map 2 shows the strategic spatial context for Burgess Hill....Town Wide Strategy and emerging District Plan and that document’s protection of the countryside around the town. It provides the overall context and framework for the Neighbourhood Plan.”**

**Amend map 2 title to “Strategic Spatial Context Map”**

**Consequential updating will be necessary to the whole of paragraphs 2.9 - 2.12 and footnotes 4 and 6 regarding the emerging MSDP once resubmitted.**

6.2.4 Paragraphs 2.13-2.19 of section 2 deal with housing provision. This issue and BHPN's role in contributing to the housing requirements set out in the development plan was discussed in detail at the public hearing in response to a number of representations raised at the Regulation 16 publicity stage that the plan did not adequately provide for meeting housing need.

6.2.5 In this context and given the requirement of the NPPF that Neighbourhood Plans should support the strategic development needs set out in the local plan and plan positively to support local development I am not convinced that this section of the plan is sufficiently clear in its position. The NPPF at paragraph 184 states that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the local area.

6.2.6 As presently drafted the plan presupposes significant prior knowledge in its readers and does not set out clearly how the BHPN will work with other parts of the development plan to meet strategic needs. I accept that it would be misleading for the plan to consider its role against the development requirements set out in the now dated MSLP and I appreciate that BHTC has been put in a difficult situation with the withdrawal of the MSDP. Nevertheless this examination and the opportunity to make modifications should be used to meet the NPPF and PPG requirement that neighbourhood plans should be based on clear and up to date evidence. Therefore to satisfy Basic Condition No 1 the plan should clearly set out its position against the land supply evidence assembled for the MSDP.

6.2.7 In preparation for the hearing I requested that MSDC prepare a briefing paper that set out the current situation with regard to the objectively assessed housing need (OAN) and how it was proposed that it could be met to demonstrate that the decision of the neighbourhood plan not to formally allocate land for housing would not jeopardise the

ability of the MSDP to meet OAN. This paper is attached at Appendix 2.

6.2.8 The District Council calculate that the OAN for the district, given the new household projections, has increased to 11,152 in the period up to 2031. An indicative OAN for Burgess Hill has been recalculated on a pro rata basis to be 2378 in the same period although the Council stress this should not be viewed as a requirement for the BHPN given that a substantial element of this would be met through the strategic site north of Burgess Hill. Participants at the hearing did not dispute the broad level of OAN based on the revised household projections and therefore it is appropriate that the revised figures are used in updating this section.

6.2.9 Although the BHPN currently states that the OAN can be met and therefore there is no need for allocating additional land within the plan this is not fully evidenced from the text in section 2. The District Council's responses at Appendix 2 provide the basis to add this numerical evidence and I recommend it is added to section 2 in order to demonstrate the BHPN can meet the local strategic need as required by the Framework.

6.2.10 The emerging MSDP is likely to identify a residual housing requirement, after allowing for the strategic sites, to be met by sites in neighbourhood plans. There was concern from hearing participants that this figure may be greater than the c1500 identified by the Council after allowing for the strategic sites and that, in this context, the fact that the BHPN would only offer about 243 units on the policy sites identified in the plan meant more land should be allocated within the neighbourhood plan.

6.2.11 BHTC made it clear that the housing capacity likely to emerge from the policy proposals had been accepted in principle by the community because it provided the opportunity to achieve wider community objectives for different areas of the town. They were not formal housing allocations as such because it was felt the contribution the Burgess Hill area was making to the District housing requirement both in respect of the strategic sites (3500 units) and large extant commitments (amounting to 1870 units) meant that further housing allocations were unnecessary. The evidence to the hearing supports this view and I am satisfied that overall the absence of formal allocations within the neighbourhood area would not result in a failure to meet the likely district housing requirement.

6.2.12 It is not a matter before me to comment further on the likely district OAN. Moreover, even if I had concluded that the allocation of further sites in the plan had been necessary, the allocation of the sites proposed by developers at the Reg 16 stage would have been impossible because the two proposed (off Keymer Road to the south of the town and off High Hatch Lane to the west) are outside the neighbourhood area. Developers will therefore have to take up the issue of their possible allocation through the emerging District Plan.

6.2.13 Notwithstanding my overall conclusion above that the housing provision is adequate, as already stated, there is a need for the position to be clarified in section 2 to

'ensure that the requirements of the NPPF and therefore Basic Condition No 1 can be met.

**Recommendation 5** The District Council working with BHTC should revise paragraphs 2.13-2.19 under a new title "*Providing to meet Housing Need*" or similar. Update paragraphs 2.15 and 2.16 to reflect the revised housing calculations likely to form the basis of the emerging MSDP set out in the Council's response to the hearing questions at Appendix 2 to this report.

Revise and expand the text at paragraphs 2.17-2.19 to demonstrate, by including a quantitative demonstration of the intended supply, how OAN will be met – specifically what commitments are in place, the role of the strategic site allocations and smaller neighbourhood plan opportunity sites and that there is therefore no specific overall need to formally allocate additional housing sites in the neighbourhood plan.

### 6.3 Section 3 – Vision and Core Objectives

6.3.1 The PPG states that "*Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop... in ways that meet identified local need and make sense for local people*". Accordingly there should be a clear thread in the BHP from the community's identification of issues to the Plan's vision and objectives and into the policies and proposals. I am slightly concerned that the thread is not entirely clear because although the text introducing the vision refers at 3.1 to the key issues it is not clear what these are. It is possible to surmise they are the key messages referred to in 1.6 in which case it would be clearer to use the same terminology in both (as I recommend in Recommendation 3) and specifically refer back to paragraph 1.6. I consider that the 'thread' from issues to plan solutions via vision and aims needs to be as clear as it can be to fully comply with the PPG, and therefore with Basic Condition No 1.

6.3.2 Specifically in respect of Core Objective 4 there is a need for a minor textual edit. I presume it is not intended to 'protect the loss...' but rather to 'protect from loss...' or 'prevent the loss...' or simply 'protect and encourage...'

**Recommendation 6:** Add at end of 3.1 "*The key issues were set out at section 1.6*"

Re CO4 – Reword using one of the options in paragraph 6.3.2 or similar.

6.3.3 With these modifications at Recommendations 6 implemented the vision and core objectives of the Plan will comply with Basic Condition No 1. The content of the vision and its related core objectives are consistent with the MSLP plan aims in its Plan Strategy at section 2 paragraphs 2.20-2.36 and the overarching policies G1-G3 and therefore complies with Basic Condition No 3. The objectives will generally establish the basis of a sustainable future although there was some concern in the SA regarding CO9 and the impact of ensuring adequate parking. However the SA concluded that on balance the plan objectives responded well to the sustainability objectives and Basic Condition No 2 would be met.

#### 6.4 Section 4 – Introduction to Policies

6.4.1 The next sections consider the policies of the BHPN in detail.

6.4.2 The overview section at the start of the policies is a largely factual section illustrating the scope of the plan. Overall the structure proposed for each policy section of supporting text, evidence base, policy text and core objective is appropriate and complies with Basic Condition No 1.

#### 6.5 Section 5 Town Centre Study Area – Policies TC1-TC6

6.5.1 Section 2 of the NPPF seeks to ensure the vitality of town centres including encouraging a mix of town centre type uses and residential development and in that respect the focus of the BHPN in policies TC1-TC6 in seeking to secure the regeneration of the town centre and their detailed proposals are consistent with these general principles and therefore with Basic Condition No 1.

6.5.2 Similarly the principle of the approach to regeneration is in conformity with both the aspirations of the MSLP policy S1 and the emerging MSDP policy DP3 and therefore Basic Condition 3 is met in principle.

6.5.3 Before looking at each policy there are 3 general issues in respect of these policies that were raised in Reg 16 representations and discussed at the hearing.

##### *Flexibility of approach*

6.5.4 New River Retail indicated that for the town centre regeneration to be successful there had to be some flexibility and that the proposals for each quarter could not be applied rigidly. It was their intention to redevelop their land ownerships in partnership with the District Council and it may be for example that some provisions set out in the BHPN would not be achieved within the ‘quarter’ envisaged by the plan but would be provided within the town centre. The question of a replacement library was given as an example.

6.5.5 There was a need therefore for the regeneration of the town centre to be approached with a degree of flexibility. New River Retail were reassured at the hearing that it was not the intention of the BHPN to be fixed and prescriptive. Residents speaking at the hearing by contrast held differing views. One felt there was already too much flexibility – people needed certainty when voting at the referendum - whilst another felt there was a need for a more organic approach which would suggest greater flexibility. Generally looking at the policies they are expressed reasonably flexibly using terms like ‘such as’ or ‘including’ to indicate that there may be other proposals that would be acceptable. However there are exceptions to this and given that the NPPF seeks town centres that are resilient to anticipated economic change it is necessary to make clear that flexibility is the intention.

6.5.6 Policy TC2 second paragraph where it states ‘*A new cinema and public square is to*

*be provided in this Quarter*' and TC3 first and second line where it states ...'There are opportunities to redevelop the Brow following the relocation of the public and community services...' are the two exceptions which imply a more rigid approach.

As well as these specific examples it would be helpful to reinforce the point by including a text insert to the supporting text following paragraph 5.6 where the quarters are introduced.

6.5.7 I accept that for residents they may feel this is straying too far towards the open ended but it is important that the BHTC is not undermined by being seen to be saying something different to what is actually being developed on the ground. On balance therefore my recommended modifications to avoid statements of more rigid commitment in the policies are warranted and echo the BHTC's position at the hearing that they wish to see evolutionary change to the town centre that residents feel comfortable with.

### **Recommendation 7**

Reword policy TC2 second paragraph to read – “*Proposals for a new town cinema and public square will be supported in this Quarter....*”

Reword policy TC3 lines 1 and 2 to read – “*There are opportunities to redevelop the Brow following relocation of any public and community services from this area.*”

Add wording following paragraph 5.6 to read:

“*It is recognised that in regenerating the town centre over a period of time it will be necessary to be able to approach opportunities for redevelopment in a flexible way across the quarters to secure a successful regeneration*” (or similar).

### *Town Centre Parking*

6.5.8 The second general matter with these town centre policies raised at the Regulation 16 stage was that it was not appropriate for BHTC to suggest that shortfalls in parking provision should be made up in other quarters. The general approach stated at 5.5 of retaining the existing level of parking and providing new and approved pedestrian and cycle routes is consistent with the NPPF at section 4. However some of the policies dealing with specific quarters imply that additional or replacement parking will be sought elsewhere in other quarters. It is possible that this requirement will affect the ability of other quarters to realise the regeneration proposals envisaged for them. The policies implying that this approach will be followed are TC1 and TC4. It was made clear at the hearing by BHTC that the statements in the policy reflected the fact that there should be no loss of parking in the town centre. However this principle could be retained by a modification to the wording to ensure current levels of provision within each quarter were at least retained ensuring there continued to be a spread of parking provision across the town centre.

### **Recommendation 8**

Reword policy TC1 line 6 to read – “*The existing level of car parking will be maintained within the area and the quality improved. A heritage centre etc....*”

Reword policy TC4 second paragraph to read – “*The existing retail offer.....in this area together with maintaining the level of car parking and improving the quality of*

***the provision.”***

6.5.9 With these modifications in place the policy statements in respect of public car parking would be in keeping with statements in the NPPF and MSLP the former which emphasizes improving the quality of parking – the latter which emphasizes using parking management to reduce car use.

*Principle of replacing community facilities affected by redevelopment*

6.5.10 The third area of concern with the town centre policies generally relates to the issue of ensuring that where community facilities are affected by redevelopment that they are replaced. The Theatres Trust and local residents raised this point and requested that a statement be included to the effect that replacement facilities would have to be provided and operational before the original facility closed for redevelopment. The building of particular concern was the Martlets Hall.

6.5.11 Paragraph 70 of the NPPF does require plan policies to plan positively for the provision of community facilities to enhance the sustainability of communities and guard against the loss of valued facilities and services particularly where this would reduce the community's abilities to meet its day to day needs. The town centre policies are consistent with this in planning positively for provision – the issue is whether specific protection is required.

6.5.12 Policy CS6 of the MSLP and policy DP23 of the emerging MSDP do provide protection to community facilities as does BHNP policy S3 which deals with loss of community and medical/health facilities.

6.5.13 I specifically asked the question at the hearing as to whether policy S3 was intended to cover town centre community facilities and was told that it did not. However it seems to me that there is no reason why S3 should not apply to town centre facilities. Otherwise if I were to conclude that there needed to be protection of town centre community facilities, as the residents were suggesting at the hearing, because of the fact that the proposals are divided into 5 policies it would effectively mean inserting the same additions into each policy which would be unnecessarily repetitive. The removal of the last sentence in the first paragraph of supporting text on P47 would mean policy S3 can relate to town centre community facilities.

**Recommendation 9 – Remove last sentence of paragraph 1 to the supporting text to policy S3 on page 47.**

*See also paragraphs 6.6.10-14 of this report where other changes relating to policy S3 are discussed.*

6.5.14 In addition to these general points of concern I have a number of specific concerns regarding the town centre policies.

6.5.15 Policy TC1 - the Civic and Cultural Quarter was the subject of a proposed clarification by MSDC. The adjusted wording seeks to clarify how new public spaces will be achieved through development proposals and the role of the housing development in bringing the new facilities forwards. Inasmuch as the NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency I accept that the District Council's suggested rewording provides helpful clarification ensuring the policy complies with Basic Condition No 1.

#### **Recommendation 10A**

**Reword the 3<sup>rd</sup> and 4<sup>th</sup> sentences of policy TC1 to read:**

***"Any development proposals will be required to provide public realm space including green areas, seating and outdoor space to create a focus for the community activities. New housing development will be acceptable in principle as part of a mixed use scheme only where it will facilitate the provision of the aforementioned community facilities."***

6.5.16 Policy TC2 refers in the first paragraph to supporting independent shops. Whilst the principle of increasing retail diversity is understood in practice this is undeliverable because the Use Classes Order 2015 allows for the change of use both within and beyond use class A1 with no control. Accordingly to meet Basic Condition No 1 a modification is required.

#### **Recommendation 10B**

**Reword policy TC2 second sentence to read – “*This includes restaurants and cafes and new retail outlets*”.**

6.5.17 Policy TC5 seeks to promote the redevelopment of the Station Quarter and it was confirmed at the hearing that all parties, including in particular Network Rail, endorsed the intentions. The objectives are understood however it is not clear why the policy is worded in a different way to the other town centre policies.

6.5.18 The NPPF indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. It would be clearer and more consistent with the requirement, without the potential for confusion if policy TC5 was expressed in the same way as the other town centre policies rather than starting - “This policy supports...”

#### **Recommendation 11**

**Reword policy TC5 at the start to read - “*The station quarter is centred on .....Proposals for the redevelopment of Burgess Hill Station into a modern, efficient transport interchange will be supported. This will include proposals to.....***

6.5.19 With Recommendations 7-11 implemented basic conditions 1 and 3 will be met by Policies TC1-6. The SA indicates that policies TC1-6 contribute generally positively to the

sustainability objectives and the modifications do not change this. Basic condition No 2 is therefore also met.

## 6.6 Section 6 Sustainable Neighbourhoods for Communities Polices S1- S4

### Policy S1 New Residential and Community Neighbourhood on Victoria Road Industrial Estate

6.6.1 Victoria Road Industrial Estate is one of the older style estates where some of the units are no longer fit for purpose. The north end of the estate in particular is boxed in to the north and east by residential development giving rise to conflict in use and a number of complaints from residents. The BHPN in response in policy S1 allows, in limited and specific circumstances the redevelopment of employment land for residential use.

6.6.2 The NPPF although fundamentally seeking to promote economic growth does include as a core principle that planning should seek to secure a high standard of amenity for all existing and future occupants of land and buildings. In that respect the principle of the change of use of employment land where it is giving rise to problems in respect of living conditions for residents is not inconsistent.

6.6.3 As a principle the MSLP at policy E2 seeks to retain employment land although it does permit redevelopment where a business use is inappropriately located or where wider community benefits would accrue. Therefore again in principle the proposal is in general conformity with the MSLP and the Council do not object to it.

6.6.4 At the hearing Rapleys, representing the Industrial Estate owners, raised concerns that the policy jeopardised economic growth potential and should be deleted. However having considered this area on my site visit it is evident that residential redevelopment particularly at the north end of the estate is already taking place. There are areas where houses are in very close proximity to large industrial plant and some flexibility to redevelop and create a more appropriate transition between residential and industrial areas is not unreasonable. It is implied by Map 10 and by the indicative policy area on the proposals map 3A however that not all of Victoria Road is intended to be covered by the policy. It would therefore be helpful to the objector if the policy were to refer to changes of use only within the northern and western sections of Victoria Road.

6.6.5 The creation of the large business park as part of the strategic site allocations in the NW sector of Burgess Hill means it is unlikely that the ability of the town to deliver economic growth would be unduly compromised as Rapleys assert on behalf of their clients. In any event policy S1 is effectively permissive. If the Estate owners do not wish to release sites for residential redevelopment the change of use will not take place.

6.6.6 The principle of the policy is therefore compliant but having reviewed the policy however I do have two further minor concerns with it in respect of Basic Conditions No 1 and 3. In respect of the introduction to the policy I am not persuaded that the reason for

allowing a change of use adequately reflects the reasoning in policy E2 of the MSLP which is more to do with conflict between industrial and residential uses and not simply where there is no prospect of continuing commercial use. The introduction should be redrafted to conform with policy E2.

6.6.7 The PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Against this test the final paragraph as drafted is unworkable because the sites are not shown on the proposals map. They are shown on Map 10 which as already confirmed is illustrative only and not part of the proposals map. The proposals map by contrast simply shows an indicative policy area.

### **Recommendation 12**

**Reword the first sentence of the first paragraph of the policy to better conform to the exceptions set out in MSLP policy E2.**

**Reword the second sentence to read “*Sites coming forward within the S1 policy area as shown on the proposals map for redevelopment need to be....*”**

**Remove the final paragraph of the policy and instead reword the last bullet point to read “*new community and retail space to serve additional and existing housing will be supported within the policy area*”**

**Make sure the policy area on the proposals map is the area where flexibility of use is warranted.**

6.6.8 With these modifications in place the policy will comply with basic condition Nos 1 and 3. The policy for the most part had a neutral or positive impact on sustainability objectives except for an uncertain (possibly negative) impact in respect of the objectives encouraging business. However the SA concludes that on balance the benefits outweigh the potential economic impact particularly when other new employment land is being brought on stream through Northern Arc proposals. Therefore Basic Condition No 2 is met.

### **Policy S2 Wivelsfield Station and Worlds End**

6.6.9 The policy is consistent with the NPPF in encouraging improvement to public transport and community facilities and the MSLP at policy BH16. The policy performed well in the SA with a neutral or positive impact in the SA. It therefore meets Basic Conditions Nos 1-3.

### **Policy S3 Protect and Enhance Existing Community and Medical/Health Facilities**

6.6.10 It is recommended at recommendation 9 above that the supporting text to this policy be amended to enable it to relate to town centre facilities as well as those in the rest of Burgess Hill. This was to provide protection for community cultural facilities.

6.6.11 The NPPF at paragraph 70 states that community cultural facilities may be

protected where facilities are valued and loss would prevent the community meeting its day to day needs. The principle of the policy is therefore consistent with the NPPF and meets Basic Condition No 1.

6.6.12 The Health Authority however has made representations at Reg 16 stage that the principle of replacing facilities lost should only be applied where there continues to be an established need for the facility. This test is absent from the policy but implicit in the NPPF. It is therefore justified to modify the policy wording as proposed by the Health Authority.

6.6.13 As stated above at paragraph 6.5.10 the Theatres Trust and residents' representations at the Reg 16 stage in respect of replacing community cultural facilities requested that where a facility is to be lost its replacement should be in place before the original is removed. Whilst the concern of the Theatres Trust is understood, there may be circumstances where it is not reasonable or necessary that the replacement facility is in place first. If the text was modified by the addition of the words.... "within an appropriate and agreed timescale", this would suffice. In such circumstances the replacement would be likely to be controlled by a S106 legal agreement. There is also a factual correction to make to the policy in respect of the reference to assets of community value. The policy wording should refer to community facilities being "registered as assets of community value"

### **Recommendation 13**

**Amend wording of 3<sup>rd</sup> sentence of policy S3 to read.... "*The Town Council will consider registering some of the existing community buildings as Assets of Community Value.***

***Amend the 4<sup>th</sup> sentence to read.... "Proposals involving the loss of community facilities for which there continues to be an established need will be resisted unless adequate alternative provision is or will be made available in a location supported by the local community within an appropriate and agreed timescale."***

6.6.14 With these modifications implemented the policy will meet the requirements of the NPPF, MSLP policy and will provide for sustainable development. The Basic Conditions Nos 1, 2 and 3 are therefore met. The policy modifications will also satisfy the concerns expressed at the Reg 16 stage.

### ***Policy S4 – Parking Standards for New Developments***

6.6.15 The BHNP seeks to address issues with parking in new developments in Burgess Hill where application of County Council parking standards is deemed to be resulting in increasing on-street congestion.

6.6.16 Paragraph 39 of the NPPF does allow the setting of local parking standards where the accessibility, type, mix and use of development, availability of public transport and local car ownership levels have been taken into account. Nexus Planning on behalf of Gleeson Developments at the Reg 16 stage expressed concern that it is not entirely clear that these factors have been accounted for in crafting the new policy and standards.

Additionally it is not clear from the tables in Appendix D whether the provision is intended to be maxima, minima or a guidance figure.

6.6.17 NPPF and PPG require accuracy in how policies will be applied. Accordingly to meet Basic Condition No 1 there is a need to clarify the tables within Appendix D and the parameters that have been factored into the standards.

6.6.18 MSDC were also concerned at the Reg 16 stage that the restriction on the conversion of garages to other uses imposed in the policy cannot successfully be applied without removing permitted development (PD) rights in each and every case.

6.6.19 Advice in the PPG on the removal of PD rights is that it should be exceptional and not routine. The PPG states that area wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. The removal of PD rights proposed in paragraph 2 of the policy is not therefore compliant with Basic Condition No1 as the conversion of garage space would normally fall within permitted development if not related to other works.

#### **Recommendation 14**

**Develop the tables in Appendix D to clarify how they are intended to operate and whether the standards are intended to be maxima or minima or simply guidance.**

**Amend column headings to refer to ‘*Non-Allocated Provision*’ and ‘*Allocated Provision*’ and use the term ‘*Designated Spaces*’ and ‘*Non-Designated Spaces*’ in each table to make their intended operation as clear as possible.**

**Amend paragraph 2 of Policy S4 to read – “*In cases where planning permission is necessary for alterations and extensions to properties support will not be given for the conversion of garage space to habitable rooms / residential use unless there is adequate space to park cars off street in line with the parking standards*”**

6.6.20 With these modifications the policy will meet Basic Conditions Nos 1 and 3 . The performance of the policy in the SA is mixed with a negative impact predicted against the promotion of public transport. However the SA concludes that on balance promotion of public transport can be picked up at the detailed planning application stage and the BHNP as a whole plays its part in promoting public transport particularly by including proposals for the improvement of both railway stations. Basic Condition No 2 is therefore met.

#### 6.7 Section 7 - Leisure and Recreation

##### Policy LR1 Improved Recreational Facilities and New Community / Sports Hall at Leylands Park

6.7.1 On balance policy LR1 is about improving recreation and community facilities at Leylands Park but to achieve this the policy proposes housing development on land currently in part occupied by Burgess Hill Town Football Club.

6.7.2 The NPPF at paragraph 74 sets out the basis on which loss of sports and recreation facilities would be permissible. Sport England has submitted a representation at the Reg 16 stage that states these tests are not met by the policy.

6.7.3 Certainly the policy, in referencing the football ground, merely indicates that it exists and that it is seeking to relocate. It was made clear at the Hearing that the District and Town Councils understood the need for replacement. However the policy is imprecise in not explaining how the policy objectives will be achieved. The fact that the club is seeking relocation of the ground means that it is not surplus to requirements and the alternative provision being made through policy LR1 would not clearly outweigh its loss. The only justification in terms of the NPPF tests for its loss to development would therefore be if it would be replaced by equivalent or better provision in a suitable location. Accordingly it is necessary to modify the policy in the second paragraph to clarify that this relocation will trigger the changes being sought for Leylands Park by the policy.

6.7.4 Southern Water in its Reg 16 representation also requests that the policy indicates how sewerage will be provided in the development. However, given that a development brief is to be prepared the proposed wording is unnecessarily detailed . I propose instead that the last sentence in paragraph 1 of the policy makes a general reference to servicing needs instead.

6.7.4 The last paragraph of the policy also attracted criticism at the Reg 16 consultation stage with Nexus Planning on behalf of the developers of the Northern Arc Strategic Development requesting that the statement regarding the new link is clarified to explain that the link would be a vehicle access link. However MSDC has made it clear that, given the nature of Maple Drive, it would be inappropriate for this to be an all vehicle link and instead it should be for public transport, cycles and emergency vehicles only. I agree as currently drafted the policy is not clear and, in line with PPG and NPPF advice about certainty in policies, if the intention is to restrict traffic on a new link this should be stated.

### **Recommendation 15**

**Amend last sentence of paragraph 1 of policy LR1 to read:**

***“Information on layout, design and servicing requirements of the units will be included in the development brief.”***

**Delete last sentence of paragraph 2 of policy LR1 and amend 3<sup>rd</sup> sentence to read:**

***“The retention of the two Southdown Rovers football pitches and space for allotments are also supported.”***

**Amend 4<sup>th</sup> sentence of paragraph 2 to form new 3<sup>rd</sup> paragraph to read:**

***“The relocation of the Burgess Hill Town Football Club to equivalent or better facilities in a suitable location will be required to allow the housing development to go ahead. This will be controlled through the development brief.”***

**Amend last paragraph of the policy to read:**

***“A public transport and cycle link will be supported.....”***

6.7.5 With these modifications in place the policy will accord with Basic Condition No 1.

The policy was considered to perform well in the SA and the modifications do not alter this outcome. The policy is also in accordance with policy 21 of the MSLP.

#### *Policy LR2 – New Park and Nature Reserve for East Burgess Hill at Keymer Tile Works*

6.7.6 The BHNP seeks to ensure that the opportunity of providing green space as part of the Keymer Tile Works redevelopment for housing is taken. As such the policy is in accordance with paragraph 73 of the NPPF which seeks access to high quality open spaces and opportunities for sport and recreation and in conformity with chapter 11 of the MSLP in helping to resolve the future of the works.

6.7.7 Sport England in its Reg 16 representation states that the policy does not wholly accord with paragraph 73 because the policy intention should be better evidenced in terms of need. The preamble to the policy does refer to the general need for open space in Burgess Hill which is accentuated by the new development on the east side of the town at Keymer tile Works and east of Kingsway and does refer to the Assessment of Open Space Sport and Recreation as part of the evidence base. The site has been subject to a master planning stage and has outline permission for the whole site and reserved matters permission for phase 1 in the western portion of the site and has involved planning in respect of open space. Given that the detailed process of on-site planning is now well underway I consider it would be duplicating and possibly counter-productive for the BHNP to be more prescriptive about exact and specific types of green space, sports and recreation proposals and nature conservation to be provided. The purpose and value of the policy is rather to establish a marker that the Keymer works in general should provide green space, sports facilities and nature conservation opportunities along the southern and eastern portions of the site to contribute to the general shortage of facilities identified in the eastern part of Burgess Hill.

6.7.8 In that respect the policy meets Basic Conditions Nos 1 and 3 and also is identified as performing well against the sustainability objectives in the SA meeting Basic Condition No 2.

#### *Policy LR3 and G1 Protecting and Improving Leisure and Recreational facilities and Areas of Open Space*

6.7.8 Policies LR3 and G1 of the BHNP work together to protect leisure and recreation facilities and areas of open space respectively. The NPPF at paragraphs 73 and 74 emphasises the importance of open space and recreation to the well-being of communities and establishes the principle that such facilities and land should not be built on. The principle of the 2 policies is therefore consistent with the NPPF and also with MSLP policy B6 and emerging MSDP policy DP22.

6.7.9 However the policies have attracted objections at the Reg 16 consultation. Concern has been expressed that the two policies duplicate each other. However I am satisfied that policy LR3 is dealing with leisure and recreation facilities which may include built facilities

whereas policy G1 is dealing with protection of open spaces. The respondents represented at the Hearing were also concerned that the policies both imposed a 'blanket restriction' on development on land for leisure and recreation or open space. In the case of policy G1 this is an unequivocal protection with no exceptions stated whilst in respect of policy LR3 the restriction would not apply if alternative provision is made. In respect of both policies however the respondents are concerned that they are expressed in a way which is not consistent with the NPPF.

6.7.10 The NPPF at paragraph 74 includes 3 exceptions where development of such land may be allowed even if it leads to the loss of facilities. The provision of replacement alternative facilities is just one of these. I acknowledge that BHTC consider all facilities and open spaces in the town are required and that overall provision is limited, particularly given the extensive new development. However it is conceivable that in some cases open spaces, buildings or land may be surplus to requirements and the means by which this must be objectively evidenced is by a full open space assessment. The third exception relates to where the development is for replacement facilities and as the purpose of the policy is principally to protect from loss to other types of development I accept that this does not need to be added to the policy.

6.7.11 In respect of policy LR3 the exception clause that is included relating to provision of alternative facilities also sets a higher test in requiring a "new **and** improved facility" rather than the "equivalent **or** better provision" required by the NPPF.

6.7.12 The PPG requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply them consistently and with confidence when determining planning applications. With that in mind the policies need to acknowledge the relevant exceptions and refer the reader to the identification of the sites on the Proposals Maps.

#### **Recommendation 16**

Revise 3<sup>rd</sup> sentence of policy LR3 to read :

***"Proposals involving the loss of leisure and recreational facilities will be resisted unless either they are supported by an assessment that demonstrates the facilities are no longer needed or they are to be replaced by equivalent or better alternative provision ....."***

Amend the 4<sup>th</sup> sentence to read:

***"The following have been identified as important by the local community and are identified on the Proposals Map. However this policy....."***

Add new second sentence to policy G1 as follows :

***"Development that would result in the loss of open space must either be supported by an open space assessment that demonstrates the open space is no longer needed or proposals for equivalent or better alternative provision".***

Correct the reference in the policy referring to Appendix D to "Appendix E". Add after Appendix E "***and identified on the proposals map will be protected...***"

NB – See also Recommendation 25 below relating to the proposals map and the removal of open spaces outside the neighbourhood area.

6.7.13 With these modifications in place the policies are compliant with the Basic Conditions Nos 1 and 3. The SA confirms the policies are generally neutral or positive in terms of sustainability objectives and the proposed modifications will not substantially change that. Accordingly the policies meet Basic Condition No 2.

6.7.14 Rapleys on behalf of land owners of the site designated V14 - Southway Nature Reserve raised concerns at the Hearing based on Reg 16 representations that this site was not publicly available open space and certainly was not a nature reserve. It had been identified as a potential housing site in the Strategic Housing Land Availability Assessment and should be deleted from the list of open spaces in Appendix E and on the Proposals Map.

6.7.15 I was however referred to the fact that the portion identified as V14 was allocated in the MSLP as recreation land under policy BH19 and it was the remainder of the land to the south and west that was allocated in the MSLP as a small scale housing site (SSH15). The designation had been supported by the community as open space and part of a green lung to western Burgess Hill.

6.7.16 The site was assessed as a site within the SHLAA and was discounted as not suitable because of the MSLP allocation and the BHPN policy. The fact that it is identified in the SHLAA as available and achievable does not mean that planning permission would be granted although BHTC recognise that as privately owned land whether the recreational allocation would be achieved would be a matter for ongoing negotiation.

6.7.17 I am satisfied that the proposal of the BHPN is in conformity with the MSLP. The BHTC did however acknowledge that V14 had been incorrectly titled as Nature Reserve and the reference on the proposals map and in Appendix E should be changed.

### **Recommendation 16A**

**Retitle open space V14 in Appendix E and Proposals Map as Land South of Southway.**

### 6.8 Section 8 Green Infrastructure

6.8.1 Matters relating to policy G1 on areas of open space are dealt with above together with policy L3 to avoid repetition.

### Policy G2 Green Circle Network

6.8.2 This policy in seeking the improvement and continuation of the Green Circle Network provides a sustainable transport corridor for walking, cycling and riding and as such is consistent with the policy objectives of section 4 of the NPPF. There is no specific strategic policy regarding the Green Circle Network in the MSLP but its development is consistent with the transport policy aims in section 8 of the MSLP and policies DP19 and DP38 of the MSDP. The policy has a neutral or positive impact in terms of sustainability objectives in the SA. Accordingly the principle of the policy meets Basic Conditions 1, 2 and 3.

6.8.3 The Planning Guidance requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Against these tests and to fully accord with Basic Condition No 1, Policy G2 should indicate how the contributions for the Green Circle Network are to be secured.

**Recommendation 17 – Add to the end of the policy G2 “...and will be secured through the Community Infrastructure Levy or S106 planning obligations.”**

NB – See also Recommendation 25 below relating to the Proposals Map and the removal of sections of the Green Circle that fall outside the Neighbourhood Area

Policy G3 Nature Conservation and Biodiversity

6.8.4 Section 11 of the NPPF on conserving and enhancing the natural environment stresses the need for plans to minimise impacts on biodiversity and provide net biodiversity gains thus the principle of policy G3 is consistent with the Framework. However again the requirement of both the Framework and the MSLP at policy C5 is not a blanket restriction on development which is the implication of the first line of policy G3. Accordingly to fully comply with Basic Conditions Nos 1 and 3 the first sentence needs to be modified to indicate that the objective is to minimise impacts.

6.8.5 In respect of the new areas proposed for nature conservation, as stated above the BHNP cannot apply policies or proposals to land outside the Neighbourhood Area. Unfortunately therefore because of the tightly drawn Neighbourhood Area the two proposed sites at Batchelors Farm and Nightingale Meadow must be removed from the policy.

**Recommendation 18 – Reword the first line of policy G3 to read:**

***“Existing areas of nature conservation will be retained and protected from any negative impacts likely to arise from development.”***

**Delete the bullet points relating to Batchelors Farm and Nightingale Meadow.**

NB – See also Recommendation 25 below relating to the Proposals Map and the removal of sites that fall outside the Neighbourhood Area.

6.8.6 With these modifications applied the policy will be consistent with Basic Conditions Nos 1 and 3. The SA concluded the impact of the policy would be neutral or positive. The rewording would not change that so Basic Condition No 2 would also be met.

Policy G4 Local Green Spaces (LGS)

6.8.7 The NPPF at paragraph 76 and 77 allows LGS of specific value to the community to be identified and protected in a similar way to GreenBelt land through the neighbourhood plan. Accordingly the principle of policy G4 is consistent with the NPPF. However the

Framework states at paragraph 76 that the designation can only be made at the time the neighbourhood plan is prepared or reviewed. In that respect the reference in the first line of the policy that sites **will be** designated is inappropriate – they **are** designated as a result of the BHPN being ‘made’.

6.8.8 Furthermore given the emphasis in paragraph 77 of the NPPF on the fact that these areas have to be demonstrably special I am not persuaded that the supporting text or evidence base is sufficient justification for the policy. The Planning Guidance requires proportionate, robust evidence to support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan. As such to comply with Basic Condition No 1 the supporting text should be developed to set out why each LGS is especially important to the community. This could be done in a table in the supporting text.

6.8.9 The matter of whether the LGS proposed were sufficiently justified was discussed at the hearing following representations at the Reg16 stage. BHTC, with confirmation from MSDC, stated that all the areas were close to the communities they served and were not extensive tracts of land. They were considered by the community at the various consultation stages on the plan to be of local significance and accessible to the community. Areas 1, 3 and 4 were also important for wildlife. Specifically regarding area 1 between Chanctonbury Road and the railway line Mr Peter Rainier of DMH Stallard criticised the use of the term “strategic gap” as the land was merely an area between development to the west and the railway it did not constitute a strategic gap in the normal accepted use of the term in landscape appraisals. In any event with the modification recommended below what is important about the site can be spelt out in the supporting text and the policy amended to simply refer to “land between Chanctonbury Road and the railway line.”

### **Recommendation 19**

Reword 1st line of policy G4 to read:

**“The following sites and areas are designated as Local Green Spaces.....”**

Reword first bullet point to read:

**“Land between Chanctonbury Road ....”**

**Insert additional supporting text to policy G4 on page 67 (possibly in tabular form) evidencing the importance of each of the 4 areas proposed as Local Green Space in the terms expressed in paragraph 77 of the NPPF.**

6.8.10 With these modifications protection of the LGS will be justified and the policy will meet Basic Conditions Nos 1 and 3. The policy was found to have a neutral or positive impact on the sustainability objectives which would not be affected by these modifications and therefore Basic Condition No 2 is also met.

### Policy G5 Allotments

6.8.11 The BHPN seeks to protect and increase the provision of allotments because of

their importance to community health and well-being as well as forming part of the town's open space resource. The intention to protect them is again in accordance with the NPPF and with policy CS10 of the MSLP. Allotments are part and parcel of the open space resource and therefore fall within the terms of paragraph 74 of the NPPF in terms of the circumstances in which they may be developed. However, in the case of the Burgess Hill allotments as they are all within the ownership and control of BHTC, I am satisfied that in this case the blanket restriction on their redevelopment implied by the policy would be acceptable.

6.8.12 The only issue with this policy is to correct the typographical error in the first line.

6.8.13 The policy was found to have neutral or positive impacts on the sustainability objectives and therefore it meets Basic Conditions Nos 1, 2 and 3.

#### **Recommendation 20**

**Reword the first line of policy G5 to read:**

**"All existing allotment sites *within* Burgess Hill....."**

#### *Policy G6 – Footpath and Cycle Links*

6.8.14 This policy in seeking the retention and maintenance of footpaths, cycleways and public rights of way ensures a sustainable transport network for walking, cycling and riding and as such is consistent with the policy objectives of section 4 of the NPPF. There is no specific strategic policy regarding such routes in the MSLP or emerging MSDP but its development is consistent with the transport policy aims in section 8 of the MSLP and policy DP19 of the MSDP. The policy has a neutral or positive impact in terms of sustainability objectives in the SA. Accordingly the principle of the policy meets Basic Conditions Nos 1, 2 and 3.

6.8.15 The only issue with this policy is to correct the typographical error in the first line.

#### **Recommendation 21**

**Reword the first line of policy G6 to read :**

**"all existing footpaths.....*within* Burgess Hill *will* be retained....."**

#### 6.9 Section 9 – Heritage and Character

#### *Policy H1 – Protecting and Enhancing Heritage Assets*

6.9.1 The NPPF at section 12 looks to plans to set out a positive strategy for the conservation and enjoyment of the historic environment. Policy H1, in seeking to preserve conservation areas and improve their management and identify and retain buildings which are not listed but are of merit, is consistent with the NPPF and policies B11 and B12 of the MSLP in this respect. However I have two matters of specific concern with the policy in respect of Basic Condition No 1.

6.9.2 First, the statutory test in legislation relating to heritage assets, including conservation areas, is that they should be preserved **or** enhanced. The policy intent behind the first part of Policy H1 seeks to require preservation **and** enhancement of character **and** appearance and as such sets a higher test which is in conflict with the legislation.

6.9.3 Secondly, whilst the identification of local buildings of architectural or historic merit is to be welcomed, in accordance with the objectives of national policy for clarity in plan making, it is not clear from the supporting text either how these buildings have been identified or what is their special merit.

6.9.4 The PPG requires proportionate, robust evidence to support the choices made and the approach taken in the plan. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan. As such to comply with Basic Condition No 1 the supporting text should be developed to set out why each building of merit has been identified. Again, as with the recommendation in respect of Local Green Space this could be done in a table in the supporting text.

### **Recommendation 22**

**Reword the first sentence of policy H1 to read:**

***“Proposals within....will be required to preserve or enhance their special character or appearance.”***

**Insert additional supporting text on page 72 explaining how the buildings of merit have been identified and evidencing why each building of merit is important (possibly in tabular form) or provide the reference to where this information is available.**

6.9.5 With these modifications in place the policy will meet Basic Condition No 1 and as the SA confirms the impact of the policy will be mainly neutral or positive Basic Condition No 2 is also met.

### *Policy H2 – Back Garden Development*

6.9.6 The BHNP through policy H2 seeks to control the extent of back garden development which has in recent years resulted in harm to the character of low density, mature residential areas with large established gardens. Paragraph 53 of the NPPF is permissive of such a policy in line with its advice in section 7 on design that development should respond to local character.

6.9.7 The policy however attracted objections at the Reg 16 stage and was the subject of discussion at the hearing. Objectors considered that the policy was insufficiently flexible and was not expressed in a positive way.

6.9.8 Having read the representations there appears to be an element of

misunderstanding about the policy. Both the supporting text and the policy itself is carefully worded such that it is clear that it is not restricting infilling in residential areas where there is a relationship to the street frontage. It is made clear that the restriction is in respect of the use of back gardens for backland development. Moreover the policy acknowledges that in some cases backland development may be acceptable and sets the criteria to establish where this is the case. I am therefore satisfied that sufficient flexibility has been built into the policy and it is not a blanket restriction.

6.9.9 With respect to the ‘tone’ of the policy and whether it should be expressed more positively I acknowledge that the focus of the NPPF is on the presumption in favour of sustainable development. However in this case, given that the BHTC wishes to give a clear steer away from development of back gardens, I accept that it would be difficult for the policy to protect against the harm were it to be expressed in the positive. Nevertheless I do agree with comments made at the hearing that the wording of the second sentence is somewhat contradictory with the first. The Planning Guidance requires that policies in a neighbourhood plan should be clear and unambiguous. They should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. Accordingly the term ‘acceptable in principle’ in the second sentence, when the first sentence is effectively restricting the principle of this type of development, is confusing and contradictory and the text needs to be modified.

### **Recommendation 23**

**Amend the second sentence of policy H2 to read :**

***“Exceptionally, proposals to intensify existing residential areas in this way will only be supported where.....”***

6.9.10 With this modification in place the policy will meet Basic Condition No 1. The principle of the policy is in general conformity with policies H1 and B1 of the MSLP, dealing with infill development and general design issues, and therefore meets Basic Condition No 3. The results of the SA found an uncertain negative impact against the sustainability objective seeking best use of land but in view of the harm likely to arise from this type of development if uncontrolled and the fact that in respect of other sustainability objectives the impact is mainly neutral the SA result is acceptable and Basic Condition No 2 is met.

### **Policy H3 – Protecting Areas of Townscape Value**

6.9.11 The BHNP has identified a number of residential areas which have a special character and contribute to the overall character and appearance of the town. The community has requested that within these areas special care is taken to ensure development is sensitive to the character of the area.

6.9.12 This approach is consistent with the policy in the NPPF at section 7 on design and also with policy B16 of the MSLP which establishes areas of townscape character. The principle of the approach therefore meets Basic Conditions Nos 1 and 3.

6.9.13 There have been objections at the Reg 16 stage that the policy is unnecessary as it duplicates policy H2 because the supporting text refers to part of the justification being pressure for back garden developments in these areas and duplicates policy B16 of the MSLP. However in the light of the discussion at the Hearing I am satisfied that the purpose of the policy in seeking to protect the character of these areas is more than simply a matter of preventing back garden development. Moreover the policy goes beyond the scope of MSLP Policy B16 in applying the protection of character to specific local areas. In any event my recommended modification at Recommendation 24 below in response to other representations will strengthen the justification for the policy and clarify its purpose.

6.9.14 The issue of how these areas were identified and whether there were other areas that should be added was also discussed at the Hearing. BHTC confirmed that the areas generally reflected the route of ancient lanes through Burgess Hill which were now characterised by trees and mature gardens to the houses.

6.9.15 As with policy H1 whilst the identification of areas of townscape value is to be welcomed, in accordance with the objectives of national policy for clarity in plan making, it is not clear from the supporting text either how these areas have been identified or what is their special merit.

6.9.16 The PPG requires proportionate, robust evidence to support the choices made and the approach taken in the plan. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan. As such to comply with Basic Condition No 1 the supporting text should be developed to set out why each area of townscape value has been identified. Again, as with the recommendation in respect of Local Green Space this could be done in a table in the supporting text.

6.9.17 The Historic England representative urged caution in attempting to produce a definitive list and suggested that the list should be open to additions in the future. Whilst I accept the principle of this approach, given that BHTC has chosen to list the areas and identify them on the proposals map, which I consider is the correct approach to provide certainty in decision making, further additions can only be added through a review of the plan.

6.9.18 Given the requirement in the PPG that policies are clear in the way they are to be applied and given that the areas of townscape character are named, for the policy to be effectively operated it should be tied to the Proposals Map.

6.9.19 Historic England, at the Reg 16 stage, also raised a concern regarding the supporting text and the BHTC's opinion that these areas were not of sufficient significance to be designated as conservation areas. Historic England were of the view that the plan should not fetter the planning authority in respect of possible future designations of conservation areas and proposed alternative wording in the second sentence of the supporting text. I agree that the planning authority's future conservation work should not be fettered and accept the need for the suggested change.

## **Recommendation 24**

**Insert additional supporting text to policy H3 explaining how the areas of townscape value have been identified and evidencing why each is important (possibly in tabular form) or provide the reference to where this information is available.**

**Amend the second sentence of policy H3 to read:**

***"The areas of townscape value are identified on the Proposals Map and are:....."***

**Amend the second sentence of the supporting text to read:**

***"In the past these areas have not been judged to have the necessary historic or..."***

6.9.20 The SA finds that policy H3 has largely neutral or positive impacts in respect of the sustainability objectives. With the modifications proposed therefore the policy would meet Basic Conditions Nos 1, 2 and 3.

## **6.10 Other Policy Related Matters**

### *Infrastructure Provision*

6.10.1 Southern Water at the Reg 16 stage made representations that there should be a new policy in the BHPN regarding infrastructure provision to service development. This matter was considered at the Hearing and I consider that both the MSLP at policies CS11 and CS12 and the emerging MSDP, which has been amended to cover this strategic issue in policy DP18, adequately cover the matter.

6.10.2 Different parts of the Development Plan work together to secure sustainable development and where a matter is adequately dealt with in the Local Plan and emerging District Plan strategic policies there is no need for the BHPN to duplicate policy. BHPN is therefore in accordance with Basic Condition 1, 2 and 3 without a separate policy on the provision of new infrastructure.

6.10.3 Southern Water have also objected in respect of policies LR3, G1, G3 and G4 that the protection given to all leisure and recreation facilities and various types of greenspace is unacceptable unless it allows for development by infrastructure providers. I have 2 concerns regarding this proposal. Firstly the infrastructure providers have been given extensive Permitted Development Rights expressly to ensure that essential infrastructure can be provided without the need for planning permission. Specifically Southern Water's activities in respect of water supply, sewerage and drainage are covered by Part 13 of the General Permitted Development Order 2015. For the most part therefore the BHPN policies do not need to make a special case for the utility providers. Moreover although Southern Water state that the policies will be in conflict with the NPPF if references to development by utility providers in each of the policies is not made, in fact the NPPF does not include this as an exception at paragraph 74. I am not therefore persuaded that the additions sought by Southern Water to these policies are necessary to meet the basic

conditions.

### *Proposals Maps*

6.10.4 The Framework indicates that plans should provide a practical basis within which decisions on planning applications can be made with a high degree of predictability and efficiency. There is a need therefore for proposals maps to be as precise as possible particularly where the operation of a policy depends on the definition of specific areas. A number of issues need to be resolved in respect of maps 3A and 3B arising from my findings above in sections 6.1- 6.9.

#### **Recommendation 25**

##### **Amend Proposals Map 3A as follows:**

- **Policy areas indicated by pinky brown shading should be identified on the proposals map by their policy numbers – eg S1 on the Victoria Road site. The areas of these policies should also be checked as precise.**
- **The policy H1 notation in the key should have the blue notification symbol and heritage asset 21 is not shown on the proposals map.**

##### **Amend Proposals Map 3B as follows:**

- **Areas identified under policy G1 which are outside the neighbourhood area namely F4- Bachelor Farm and possibly D10 and D24 Jane Murray Way should be removed from the Proposals Map.**
- **Those sections of the Green Circle network outside the neighbourhood area at Nightingale Meadow, North West of Hope Farm and at Jane Murray Way should be removed.**
- **Areas identified under policy G3 which are outside the neighbourhood area namely 3 - Nightingale Meadow and 4 – Bachelor Farm should be removed from the Proposals Map.**

6.10.5 It is unfortunate that these notations cannot be shown for completeness but there is no alternative where the neighbourhood area has been drawn tightly on the basis of the built up area.

### 6.11 Section 10 Implementation and Review

6.11.1 To meet Basic Condition No 1 the section on delivery needs to acknowledge that as a statutory plan which forms part of the development plan a key part of delivery is via policy implementation through the management of development and change. Section 10 at present largely focusses on infrastructure and capital investment to implement the plans project actions which of course is important but the principal mechanism by which policy implementation will be achieved is not made clear. Additional text is therefore required to acknowledge the principal method of implementing the neighbourhood plan through development management.

6.11.2 Updating following the changing status of the emerging MSDP will need to be made to section 10 but whilst not essential to the consideration of Basic Conditions the clarity of the section would also be assisted if paragraphs 10.4-10.7 were simply omitted and the plan carried on at 10.8.

**Recommendation 26 – insert new para 10.2 to read – “Once the Neighbourhood Plan has been ‘made’ by Mid Sussex District Council the Council will determine all planning applications and other proposals in the light of policies set out in the plan. Similarly the Town Council will look to apply the Plan’s policies in its decision making. Applicants will be expected to demonstrate in their applications how they conform to the neighbourhood plan policies. The adjacent Parish Councils will be expected to have regard to the policies where they are consulted on development proposals within Burgess Hill”.**

6.11.3 Section 10 includes a short section on monitoring but no particularly firm commitment to review. In the same way that the NPPF at paragraph 153 requires Local Plans to be kept under review, good practice would recommend a commitment to review the BHPN as necessary in the light of a significant change in circumstances, for example where the MSDP is being reviewed. In this way the risk of contradiction between plans can be minimised.

**Recommendation 27 – Insert new paragraph at the end of Section 10 to read**  
**“The Town Council and Mid Sussex District Council will work together to bring forward proposals to review the neighbourhood plan as necessary during the plan period following procedures for review as may be set out in neighbourhood planning regulations applying at that time. It is intended that such reviews are carried out approximately every five years.”**

## **7 Referendum**

7.1 Subject to the recommended modifications set out above being completed, the Burgess Hill Neighbourhood Plan should proceed to a Referendum.

7.2 I am required to consider whether the Referendum Area should be synonymous with the Burgess Hill Neighbourhood Area or extended beyond it.

7.3 As discussed above the Neighbourhood Area largely follows the built up area boundary as defined in the MSLP. However as a result of development in the 10+ years that have elapsed since the MSLP was adopted there are a number of areas built and under construction (notably land east of Kingsway) now outside the built up area boundary but within the Burgess Hill Town Council Boundary. Residents of these areas will clearly look to Burgess Hill for services, retail, leisure, etc. and as much of the plan content relates to these issues it seems reasonable that they should be given the opportunity to vote in the referendum.

7.4 This was a matter discussed at the Hearing as I wished to gather participants' views on the matter. It was noted in the discussion that there were areas in the north east of the town that although physically part of Burgess Hill in fact fell within the administrative control of Lewes District Council. It was put to me that it would be administratively difficult to include residents of these areas in the Referendum and indeed they already were covered by another neighbourhood plan.

7.5 I accept this point but do consider that it is necessary to recommend that there is a logical rationale for the referendum area including all of the Town Council's administrative area and not merely the Neighbourhood Area. This was supported by the District Council at the Hearing and no objections were expressed.

**Recommendation 28**

**I recommend to Mid Sussex District Council that the Neighbourhood Plan, modified as specified above, should proceed to a Referendum based on the Burgess Hill Neighbourhood Area as designated by the Council on 16 July 2012 plus the additional areas within the Town Council's administrative boundary.**

Peter D Biggers 19 August 2015  
Independent Examiner  
Argyle Planning Consultancy Ltd

# **Appendix 1 Hearing Programme and Topics**

## **Burgess Hill Neighbourhood Plan Hearing**

**Date – Friday 19<sup>th</sup> June 2015**

**Time – 13.00 – c17.15**

**Venue – Council Chamber, Mid Sussex District Council,  
Oaklands, Oaklands Road, Haywards Heath**

The Independent Examiner Mr Peter Biggers BSc Hons MRTPI appointed to carry out an examination of the Burgess Hill Neighbourhood plan has requested that a hearing in public be held to consider whether the Neighbourhood Plan has regard to national policy and advice and is in general conformity with the Mid Sussex Local Plan particularly in respect of housing provision and town centre regeneration. The Hearing will only deal with selected areas of the plan as set out in the programme below.

### **Programme**

**13.00** Introductions, opening remarks and scope of the hearing.

**13.20 Session 1** - Understanding general matters – time period, neighbourhood area, referendum area.

**13.50 Session 2** - Understanding the Plan Strategy and Housing Land Requirements and Supply.

**14.50 Break**

**15.05 Session 3** - Town Centre Regeneration

**15.45 Session 4** – Community Facilities

**16.15 Session 5** – Leisure and Recreation and Green Infrastructure

**16.45 Session 6** - Heritage

**17.15 Close**

## Burgess Hill Neighbourhood Plan Examination – Hearing 19 June 2015.

### Independent Examiner's Pre-Set Questions to Guide the Discussion

#### Session 1 – Understanding General Matters Relating to the Plan

- 1.1 What is the rationale for extending the Neighbourhood Plan period to 2035 beyond the proposed period for the emerging Mid Sussex District Plan? (BHTC to open)
- 1.2 What is the rationale for basing the Neighbourhood Area on the built up area boundary rather than the ward boundaries within the parish when policies G1, G2 and G3 and the aspiration in paragraph 1.6 of the plan involve locations outside of the Neighbourhood Area? (BHTC to open)
- 1.3 Given the positioning of the Neighbourhood Area in relation to the full extent of the built up area of Burgess Hill, how important do you consider it will be to extend the referendum area beyond the neighbourhood area for example to include attached residential areas beyond the plan boundary to the north and north east which presumably look to Burgess Hill for all their services? (MSDC to open)
- 1.4 Is the mapping within the plan in relation to the spatial policies of the plan intended to be purely illustrative or to assist in interpreting the Proposals Map at Map 3A and 3B in Appendix A? (BHTC to open)

#### Session 2 – Plan Strategy and Housing Land Requirements and Supply.

- 2.1 Should the Neighbourhood Plan include a clear statement of how housing requirements in the evidence base of the emerging district plan will be met? (DMH Stallard to open)
- 2.2 Is the figure of 1871 houses required for Burgess Hill (paragraph 2.16) a reasonable figure based on the most recent findings of the evidence base for the emerging District Plan? (MSDC to open)
- 2.3 Of the 1871 houses (or such revised figure as may be appropriate) required for Burgess Hill how many are already met through commitments and how many will the plan proposals contribute? (figures are not provided for commitments or for some of the plan proposals). (MSDC to open)
- 2.4 Is the expectation that part of this need will be met from the strategic site north of the town? (MSDC to open)
- 2.5 Is it expected that some of the 1800 units, referred to in the evidence base for the emerging District Plan to be allocated through neighbourhood plans, will be met in Burgess Hill over and above the 3500-4000 on the strategic sites. If so how much and are the sites identified within the BH plan area sufficient? (MSDC to open)
- 2.6 What specific opportunities were there for potential development sites to be put forward, considered and debated? (BHTC to open)
- 2.7 Were the areas proposed in representations (East of Keymer Road / South of Folders Lane and East of High Hatch Lane) considered as potential housing supply at an earlier stage of the plan or simply discounted on the basis that they were outside the Neighbourhood Area? (BHTC to open)

#### Session 3 – Town Centre Regeneration

- 3.1 Will the approach in the plan of dividing the town centre into quarters ensure vitality and viability of the TC as a whole is secured? (GL Hearn for New River Retail to open)

- 3.2 Do the specific proposals in each of the quarters provide sufficient flexibility of use to facilitate regeneration. (GL Hearn for New River Retail to open)
- Should there be a more gradual piecemeal approach to the regeneration of the town centre? (Mrs H Warne to open)
- 3.3 Should there be a policy safeguard included in the plan that where community / cultural facilities will be lost through redevelopment and it is agreed there is a need to replace them that the replacement facility will be provided before the original facility is lost? (Theatres Trust to open)
- 3.4 Has Network Rail endorsed the possibility of redevelopment of the station at policy TC5? (BHTC to open)

#### **Session 4 – Community Facilities**

- 4.1 Is the intention of policy S3 that it will or will not apply to community facilities located in the town centre policy area – the supporting text is not clear. (BHTC to open)
- 4.2 Are the community facilities which are to be registered as Assets of Community Value generally known and agreed at this point? (BHTC to open)
- 4.3 Is a blanket protection for all community facilities justified? (NHS Property Services to open)
- 4.4 Should there be a new policy for infrastructure provision? (Southern Water to open)

#### **Session 5 – Leisure and Recreation Proposals and Green Infrastructure**

- 5.1 Is the overall package proposed at Leylands Park (Policy LR1) including the loss of an existing playing field to housing justified to secure improved leisure and recreation facilities? (Sport England to open)
- 5.2 Are the restrictions in policies LR3 and G1 in respect of protecting recreation space and greenspace compliant with NPPF policy and with the needs of infrastructure providers? (Sport England to open)
- 5.3 Are the areas designated as Local Green Space in policy G4 agreed to be those that meet the criteria of NPPF paragraphs 76 and 77.(DMH Stallard to open)

#### **Session 6 – Heritage**

- 6.1 How have the buildings of local heritage value been identified and is the list agreed as comprehensive? (BHTC to open)
- 6.2 Is the restriction of development in back garden land in policy H2 appropriate? (Rapleys for Indigo Scott to open)
- 6.3 What is the evidence for the areas of townscape value in policy H3? (BHTC to open)

Peter D. Biggers  
Independent Examiner  
8 June 2015

## **Appendix 2 Responses Prepared by Mid Sussex DC on Housing**

### **Burgess Hill Neighbourhood Plan Examination Hearing – 19 June 2015**

#### **Mid Sussex DC written response to Examination Hearing Session 2 questions 2.2 - 2.5**

Mid Sussex District Council has been asked by Peter Biggers, the independent examiner for the Burgess Hill Neighbourhood Plan, to respond in writing to four questions for Session 2 of the Neighbourhood Plan examination hearing. The District Council's responses are set out below.

#### **2.2 Is the figure of 1,871 houses required for Burgess Hill (paragraph 2.16) a reasonable figure based on the most recent findings of the evidence base for the emerging District Plan?**

Firstly, it is important to note that the figure of 1,871 is not a Neighbourhood Plan requirement (i.e. it was never an intended housing target). It is simply an indication of local Burgess Hill need, based on a proportion of the District's need as a whole.

The now withdrawn District Plan had a District-wide housing figure of 10,600 (530 per annum). Following its withdrawal, the District Council updated the housing number evidence base in light of the publication of the National Planning Practice Guidance (NPPG) in March 2014. The NPPG stated that the approach used to determine the District's housing need could also be used at a Neighbourhood Plan level.

As household and population projections data is not available at Town/Parish level, it was deemed pragmatic to 'proportion out' the District's total housing need to the Towns/Parishes based on their current proportion of District population and households. This was to ensure that a consistent approach was being taken for all the Neighbourhood Plans being prepared in Mid Sussex.

The further work indicated that the Objectively Assessed Need (OAN) for Mid Sussex was 8,772 (516 per annum) over the plan period 2014-2031. This was reported to the District's Scrutiny Committee for Planning and Economic Development on 9th July 2014, and the proportional split for Neighbourhood Plan purposes was communicated to the relevant Town and Parish Councils. For Burgess Hill, this led to an approximate OAN of 1,871.

The District Council published further work regarding OAN within its Housing and Economic Development Needs Assessment (HEDNA) in February 2015. This has now been updated (June 2015) to take account of the latest household projection data which was released by DCLG in February. This has revised the District's OAN to 11,152 (656 per annum) for 2014-2031. Consequently, the proportional split to Towns and Parishes has been revised. For Burgess Hill, the approximate OAN has risen to 2,378

The figure within the Burgess Hill Neighbourhood Plan is therefore reflective of the District's evidence base at the time it was written, albeit that the evidence base has been recently updated. It would therefore be reasonable for consequential amendments to the text to be included within the Burgess Hill Neighbourhood Plan to reflect the latest position. A revised figure of 2,378 homes could therefore be included.

To reiterate though, it is not proposed that the Neighbourhood Plan should seek to make allocations to provide this level of housing since the substantial majority of this need will be met through District Plan allocations and commitments.

### **2.3 Of the 1871 houses (or such revised figures as may be appropriate) required for Burgess Hill how many are already met through commitments and how many will the plan proposals contribute? (figures are not provided for commitments or some of the plan proposals)**

The Pre-Submission District Plan 2014–2031 sets out how the housing requirements of the District will be met. In particular, Policy DP5: Housing states that the housing requirement of 11,050 homes will comprise:

**Table 1. District housing requirements**

District Plan Requirement	11,050
Completions 2014/15	630
Housing Commitments	5,405
Strategic development north and north-west of Burgess Hill	3,500
Elsewhere in the District, as allocated through Neighbourhood Plans or other appropriate planning documents and identified SHLAA sites in years 1 – 5.	1,515 (the residual amount)

As set out in Table 1 above, the Pre-Submission District Plan anticipates that around 1,515 new homes will come forward through Neighbourhood Plans.

There are 5,405 commitments that will contribute towards meeting the housing requirement for the District. Of these 1,627 are in Burgess Hill. Existing commitments therefore contribute towards a good proportion of Burgess Hill's need (now 2,378 as set out in question 2.2). The commitments (Large sites 6+units) for Burgess Hill are set out below.

**Table 2. Burgess Hill commitments**

Ward	Site Address	Overall Total	Total Remaining	Reference	Lapse Date
Chanctonbury Ward	Station yard/car park Burgess Hill	100	100	Allocated	
Franklands Ward	The Oaks Centre Junction Road Burgess Hill	12	12	Allocated	
Leylands Ward	North of Faulkners Way Burgess Hill	50	50	Allocated	

Leylands Ward	Gas holder station Leylands Road Burgess Hill	58	58	Allocated	
Town Ward	Open air market Burgess Hill	0	0	Allocated	
Dunstall Ward	Covers Timber Yard 107 Fairfield Road Burgess Hill	15	15	12/01052/FUL	23/07/2015
Leylands Ward	Former Sewage Treatment Works, Burgess Hill	325	325	08/01644/out	24/06/2019
Leylands Ward	Land at 152 Leylands Road, Burgess Hill	6	6	14/02395/FUL	12/01/2018
St Andrews Ward	Keymer Tile Works Nye Road Burgess Hill	475	475	09/03697/OUT	30/04/2017
St Andrews Ward	Land East of Kingsway Burgess Hill	480	480	12/01532/OUT	10/05/2016
St Andrews Ward	The Garage, 1 Janes Lane, Burgess Hill, West Sussex. RH15 0QJ.	9	9	12/01690/FUL	12/11/2015
Town Ward	Osborne House Station Road Burgess Hill	14	14	14/03006/FUL	20/11/2017
Victoria Ward	71 Victoria Road, Burgess Hill	14	14	13/02759/FUL	30/12/2016
Victoria Ward	76 Victoria Road, Burgess Hill	11	11	13/03617/FUL	Commenced
Victoria Ward	69 Victoria Road, Burgess Hill	14	14	14/03097/FUL	08/01/2018
Victoria Ward	Marlborough Court, Royal George Road, Burgess Hill	14	14	13/01183/FUL	Commenced
West Ward	Land north of Maltings Park (Phase 1 and 2) Burgess Hill (Woodpecker Crescent)	94	30	09/00602/FUL	

There is an element of double counting between the commitments list and allocations within the Burgess Hill Neighbourhood Plan. These are set out below:

#### ***Policy TC1 The civic and cultural quarter – new housing provision***

This site is allocated in the Mid Sussex Local Plan (BH1 policy for 25 units) and therefore there is an element of double counting. It is included within the commitments for 0 units, as it is considered to have low likelihood of coming forward for development. However, an allocation for new housing provision as part of a mixed used scheme may help this site come forward,

#### ***Policy TC3 The Brow Quarter – new housing provision***

This is a new allocation and therefore any development on this site would be in addition to what has been accounted for in the District Plan Commitments, and therefore contribute towards the 1,515 residual figure to be found through Neighbourhood Plans.

### ***Policy TC5 The Station Quarter – new housing provision***

This site is allocated in the Mid Sussex Local Plan (BH3 policy for 60 units as part of a mixed use scheme) and therefore there is an element of double counting. It is included in the District Plan commitments for 100 units

### ***Policy S1 New residential and community neighbourhood on Victoria Road Industrial estate***

This policy supports the redevelopment of commercial uses on the Industrial estate. Any development within this area would be in addition to what has already been accounted for in the District Plan Commitments (not including the 3 sites that already have planning permission for residential redevelopment). , It would therefore contribute towards the 1,515 residual figure to be found through Neighbourhood Plans.

### ***Policy LR1 Improved recreational facilities and new community/sports hall at Leylands Park***

This allocation identified 2 potential housing areas. The area to the north of Faulkners Way is allocated in the Mid Sussex Local Plan (Policy BH6 for 50 units) and therefore there is an element of double counting. The area to the north of Maple Drive is within the District Plan Strategic Allocation for the North and north/west of Burgess Hill and therefore counted within the 3,500 homes.

Policy areas TC3 and S1 would deliver additional units to the residual amount that will need to be provided to deliver the overall District Plan requirement. It is not possible to say exactly how much this would be as the Neighbourhood Plan doesn't specify a housing number within the policies in order to provide flexibility, nor does it seek to allocate specific sites. It is accepted that development will take place within the Built Up Area Boundary and seeks to provide an illustration as to where this may be supported.

It is considered by Mid Sussex District Council that policies TC1, TC3, TC5, S1, LR1 along with the extant outline permission at Keymer Tiles in LR2 for 475 dwellings

and policy H2 provides sufficient scope for housing development within the Built Up Area Boundary subject to a number of criteria.

The Burgess Hill Neighbourhood Plan was never intended to restrict housing numbers or place a cap, instead it is intended to provide an overarching framework that provides some flexibility to take into account site specific circumstances when they arise.

Overall, the housing need of 2,378 for Burgess Hill will be more than adequately met (in fact exceeded) by the strategic development in the District Plan, existing commitments and the broad allocations within the Burgess Hill Neighbourhood Plan.

## **2.4 Is the expectation that part of this need will be met from the strategic site north of the town?**

The strategic allocation will play a key role in meeting District wide needs. The overall District wide need of 11,050 dwellings includes Burgess Hill's need of 2,378. It is correct therefore that the strategic development will play a significant part in meeting Burgess Hill's need as well as further local needs.

**2.5 Is it expected that some of the 1800 units, referred to in the evidence base for the emerging District Plan to be allocated through neighbourhood plans, will be met in Burgess Hill over and above the 3500- 4000 on the strategic sites. If so how much and are the sites identified within the Burgess Hill plan area sufficient?**

The residual District Plan housing requirement has been revised from 1,800 units to 1,515,. These will be delivered through the remaining Neighbourhood Plans.

These include the Neighbourhood Plans for the District's three main towns, Burgess Hill, East Grinstead and Haywards Heath. It is expected that the three towns will deliver the largest proportion of houses, being the most sustainable locations as set out in Policy DP6: Settlement Hierarchy of the emerging District Plan.

It is recognised that the strategic sites and existing commitments within Burgess Hill exceed Burgess Hill's objectively assessed need.

The District Council has not provided specific targets for Neighbourhood Plans. The indicative OAN for Burgess Hill, which is based on a proportional split, does not take into account the Northern Arc strategic development proposals or any constraints in setting this figure. It is a 'policy off' scenario.

As set out in response to question 2.3, the Burgess Hill Neighbourhood Plan allows flexibly for residential development to take place within the town that would be in addition to that already committed. By way of example, it is possible to look at the Strategic Housing Land Availability Assessment (SHLAA) (June 2015) that the District Council has prepared. Policy TC3 of the Neighbourhood Plan is covered by two SHLAA sites (reference numbers 621 and 528). Site 621 has a potential yield of 25 units. Site 528 has a potential yield of 150 units. Policy S1 of the Neighbourhood.

Plan is covered by SHLAA sites 544 and 245 (in part). Site 544 covers a smaller area and has a smaller site area and could have a yield of 68 units. In total this amounts to a further 243 units that could be delivered within the town which is a reasonable proportion of the District Plan's 1,515 residual amount to be found in Neighbourhood Plans given the number of existing commitments and the proposed strategic development.

The District Council's opinion is that the allocations coming forward through the District Plan alongside the overarching policies in the Burgess Hill Neighbourhood Plan will adequately meet (and exceed) the housing need of 2,378 for Burgess Hill as identified in the District Council's HEDNA Update (June 2015).