

Selsey Neighbourhood Plan

Initial comments of Independent Examiner

Prepared by

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Introduction

1. As you will be aware I have been appointed to carry out the examination of the Selsey Neighbourhood Plan and I have now completed my initial assessment of the plan. I have also carried out an unaccompanied site visit to the town.
2. One of the examiner's first tasks is to determine whether the examination should proceed via the normal route, namely through an examination of the written material and the representations or whether a public hearing is required should I feel the need to call for further submissions to allow me to adequately examine matters in greater detail.
3. **I have concluded that it will be necessary to call a public hearing to hear further submissions on a number of issues.** I set out the questions I wish to explore are in this note. In addition, there are a small number of other points where a written response from the Qualifying Body will suffice and do not have to be part of the hearing. I will prepare an additional note when the arrangements for the hearing have been agreed, setting out how I will conduct the hearing and identify the parties to be invited and the format of the examination.
4. I am very aware that the Town Council and the Project Working Group commenced working on the plan some years ago and in the intervening periods there have been a number of changes that will have an impact on the basic conditions test. In particular, further guidance has been published on neighbourhood planning as well as there being a number of changes to national and local planning policy that are directly relevant to the Plan under examination and I wish to offer the opportunity for parties to comment on a number of these changes as they are likely to affect the conclusions I will come to.
5. The following sections deal with the matter that I wish to examine further at the public hearing and I will then add a set of questions under Other Matters at the end of this note for which I am happy to receive a written response.

What elements of the Neighbourhood Plan Documents will constitute the Statutory Development Plan?

6. I am particularly concerned that as the neighbourhood plan forms part of the statutory development plan, its policies must only address the development and use of land. The online Planning Practice Guidance states that plans should "provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency".
7. The Selsey NP incorporates 2 documents – Part 1 is an Audit and Part 2 is entitled "Planning Guidance, Design Guide and Key Policies". I need to be clear as to what parts of the Plan are to form part of the development plan. Similarly, a developer or decision maker must have clarity as to what parts of the document need to be addressed with regard to a proposed development

as opposed to statements which amount to Town Council policy. In particular, I need to know what part are design guidance as opposed to plan policy and what weight should be given to that element of the Plan. It may seem to be an arbitrary distinction, as the Neighbourhood Plan is an expression of the community's views on the future of the town, but the planning policies which will be used for determining planning applications, need to be clear and the policies need to be tested to ensure that the Plan meets the Basic Conditions.

8. This is not an unusual position for an Examiner to be faced with and assistance is again given in the Planning Practice Guidance which states: -
 - “Neighbourhood Plans can inspire local people and businesses to consider other ways to improve their neighbourhood than through development and use of land. Wider community aspirations than those relating to the development and action dealing with non land use matters should be clearly identifiable e.g. in a companion document or annexe”
9. In reading through the Selsey NP there is much that material that describes how the town as it is and how it has developed and is commendably clear as to what its vision is for Selsey as a place to live, work and spend leisure time in the future. The document does contain a section that is described in the contents page as Policies towards the end of the document and that is helpful. However, I am concerned that there are statements elsewhere in the document which purport to set out a policy position or at least could be interpreted by some, as Neighbourhood Plan policy. It may be helpful for me to give a couple of examples.
10. In the section dealing with Future Housing Provision on page 31 there is a sentence that states “Therefore well designed “cottages” or terraced two up, two down houses should be included in new development” That may or may not be construed as a planning policy against which a planning application will be judged.
11. On page 38 there is a statement “New development immediately on the coastline must be positioned so that the primary living space has clear views of the sea.” Whilst a commendable piece of good design guidance, is it intended that this statement should constitute planning policy and is it expected that a planning application would be refused if it did not achieve this objective and if so would it be better to include it as an explicit policy?
12. A further example is again on Page 48, which states “The Neighbourhood Plan, will continue to give preference to:
 - The development of brownfield sites that meet the aim of the plan, primarily or
 - The development of brownfield sites before the development of any greenfield sites”
13. The question that arises from the above statement is whether the above constitutes a phasing policy being promoted by the plan and is it suggesting

that consent will not be given for green field sites within the settlement boundary before brownfield locations.

14. At the hearing I will be looking for assistance in seeking to identify which part of the document constitutes development plan policies and which part would better be identified as design guidance to encourage good design in the same way that some LPAs have published Design Codes or Design Guides.
15. I would welcome suggestions on the best way the Plan could differentiate between the planning policies and the background information and non land use elements. I do note that on page 75 there are matters which are described as non planning objectives (which incidentally seems to include land use proposals relating to the building of an observatory at Oval Field and a café/ kiosk at Hillfield Road) but elsewhere in the document there are numerous references to policies which I would judge to not be planning policies, such as removing unnecessary signage, or retaining community safety facilities. Many of these are non land use policies are effectively bids for resources such as the section dealing with the retention of emergency services within the town as well as library services and comments regarding the setting of car parking charges rather than being land use policy.

Should there be a Neighbourhood Plan Policy or Proposals Map?

16. I note that there is not a comprehensive plan showing the site allocations, areas to be designated Open Space, primary shopping areas etc. although there are a number of plans in the document and the appendices. There are plans in the document which identify land for example as Green Field with Development Potential. I am unclear if this is an allocation or not.
17. Similarly, there is no plan which shows the geographical extent of the land covered by the Neighbourhood Plan policies. I did discover the Designation Plan on the Chichester website but the extent of the coverage of the Plan's policies should be clear in the Plan.

What is the status of the Sustainability Policies?

18. It is clear that a key thrust in the Plan is to incorporate into planning requirements, measures to deliver high standards of sustainability in new construction within the town. I can fully understand the logic bearing in mind the town's location.
19. However subsequent to the Plan's submission, the Secretary of State made a statement to the House of Commons on 25th March 2015. This ministerial statement set out new national policy in a number of areas including the setting of new standards for new dwellings. This states: -
"Local Planning Authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging local plans, neighbourhood plans or supplementary planning

documents any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.”

20. My initial reaction is that the detailed policies in the plan no longer are in accordance with government policy and therefore do not meet the Basic Conditions test. However, I would like to offer parties the opportunity to comment on this position as it would remove a major thrust of the Neighbourhood Plans vision if removed.

What Should the Planning Status in the Plan be of the Land at Thawscroft?

21. I need to be totally clear exactly what the neighbourhood plan is proposing for the Thawscroft site. I understand that it is the flooding issues that is keeping the plan from allocating it for development at Submission stage although the Plan proposes to change the settlement boundary to incorporate the site. What is the nature of the flooding risk on the site and what is the timescale for the Environment Agency reconsidering the flooding status of the site having regard to the effectiveness of the Medmerry defences? If during the life of the plan the flooding objections are removed by the EA, will it be better for the site to have a conditional allocation or should any development of the site be considered as a windfall.

Do the Infrastructure and Transport Policies meet the statutory tests for planning obligations?

22. I am assuming that the list of projects set out in Appendix 1 are a “wish list” of projects for the town that the Town Council is seeking to utilise its 25% contribution from CIL receipts that are received when CIL is introduced in to Chichester District. Beyond Policy TR1 there appears no mechanism in the plan to seek to collect Section 106 moneys and if they are being collected under other development plan policies the requirements of the CIL Regulations (Regulation 122) will need to be satisfied and the money can only be sought when it can be demonstrated that the obligation is
- a. necessary to make the development acceptable in planning terms
 - b. directly related to the development; and
 - c. fairly and reasonably related in scale and kind to the development.
23. Furthermore, I need to be satisfied that the policy requirement that all schemes over a single unit of market housing must contribute to traffic calming accords with the above criteria. Furthermore, the effectiveness of the policy is in questioned in terms of complying with the Regulation that restrict the use of pooled funds to a particular scheme to 5 planning applications. I will wish to to hear from the County Council as to whether the highway and transport schemes being promoted in the Neighbourhood Plan have their support as they as highway authority and will be the agency responsible for

their delivery.

24. I would welcome views as to whether all the schemes set out in Appendix 1 fall within the definition of what is usually described as infrastructure and if they are proposals included in the Neighbourhood Plan wish list such as Development of a Town Square – should that not form part of the neighbourhood plan proposals. Conversely if there is no prospect of being projects being deliverable within the timescale of the Plan should they be referred to in the Neighbourhood Plan?

Other matters

25. I have the following points of clarification or areas where I would welcome a note to assist my understanding of a couple of issues:

- Policy TAW01 This is a proposal for temporary accommodation for agricultural workers. Can you explain why this site has been selected? When I passed the site and from my viewing of the site on Google Earth it seems that the mobile homes are already on the site. Can you clarify why this is a neighbourhood plan allocation?
- Are there any plans showing the cross peninsula links referred in Policy INF 3 and the proposed cycle ways?
- Do you have a size in mind in terms of what constitutes a large property on a large plot which is the final point in Policy DES01?
- Do any of the illustrative layout plans need updating?
- Are there any other parts of the plan that would benefit from updating prior to its finalisation?

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