

Unit 42, Sussex Innovation Centre,
Science Park Square, Falmer,
Brighton, BN1 9SB
Tel: 01273 478654
www.parkerdann.co.uk

Neighbourhood Planning
Wealden District Council
Via Email: Nplans@wealden.gov.uk

22nd February 2024

Dear Sir / Madam,

RE: East Hoathly with Halland Neighbourhood Plan Regulation 16 Consultation

Introduction

Following publication of the Plan under Regulation 16 – The Neighbourhood Planning (General) Regulations 2012, please find below our comments made in respect of the Plan on behalf of our client Hesmonds Stud Ltd.

Hesmonds Stud Ltd is one of, if not the, largest landowner in the Neighbourhood Plan area but the Parish Council / Neighbourhood Plan Steering Group has not once sought to engage with the Stud. This is despite the extremely detrimental impact the draft Neighbourhood Plan seeks to impose on the Stud's land.

Our primary interest in the Plan relates to the proposed allocation of 'Circle of Oaks' as Local Green Space under policy EHHNP Policy 7 - Local Green Spaces. This allocation is wholly inappropriate. For context, this land was identified as potentially suitable for housing development in the Wealden District Council Strategic Housing and Economic Land Availability Assessment (SHELAA), is a draft allocation in the Regulation 18 Wealden Local Plan and is the subject of a live planning application for the erection of 17.No dwellings (including 35 % affordable), access, landscaping and other associated infrastructure under Council Ref: WD/2023/2516/MAJ. It is due to be considered at Planning Committee within the next month with a recommendation for approval.

Overall, we are disappointed with the content of the East Hoathly with Halland Neighbourhood Plan. We regret that Parish Council chose not to contact us to meet with us prior to issuing the Regulation 16 consultation. The draft Plan is little more than a cheap attempt to stymy sustainable development. The draft Neighbourhood Plan cannot lawfully be made in its current form.

Policy EHHNP Policy 7 - Local Green Spaces

EHHNP Policy 7 - Local Green Spaces designates a series of local green spaces including e. Local Green Space 5 - Circle of Oaks Green Gap. For East Hoathly, these are shown on Figure 12 – Local Green Space – Policies Map East Hoathly and are depicted as wrapping around a large portion of the settlement.

The Planning Practice Guidance directly warns against an approach whereby the edge of the settlement (where development is most likely to take place) is sterilised from meeting housing needs. It asserts *"blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designation should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name."* Paragraph: 015 Reference ID: 37-015-20140306

This is precisely what the Neighbourhood Plan seeks to do.

The National Planning Policy Framework (NPPF) provides relevant policy in relation to the local green space designation. This is expanded on in the PPG.

The NPPF confirms:

"The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period." (Paragraph 105)

"The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land."* (Paragraph 106)

The proposed designation of Circle of Oaks contradicts this guidance and therefore the basic conditions. It's designation would interfere with the delivery of sustainable development (which the LPA is actively promoting on the land) and would undermine the delivery of sufficient homes. In this respect, it would exacerbate an

existing problem in Wealden District as the current Regulation 18 Plan falls approximately 25 % short of meeting objectively assessed housing needs (OAHN). The site provides access to further land in the same ownership also allocated (in draft) for development and so the Council and the wider community would lose hundreds of houses. This cannot be said to be consistent with local planning of sustainable development.

The PPG expands on this answering the question:

"How does Local Green Space designation relate to development?"

*"Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, **plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.**"* Paragraph: 007 Reference ID: 37-007-20140306 (Our emphasis)

The aim of Wealden District Council's plan making is to deliver housing on this site. The proposed LGS designation would undermine this. It does not meet the basic conditions in that it does not have regard to national policies and advice contained in guidance issued by the Secretary of State or contribute to the achievement of sustainable development.

The District Council's own comments in respect of this issue have been roundly ignored by the Parish Council as shown on page 202 of the Consultation Statement. The District Council state:

"It is noted that this LGS has been reduced in size since our previous comments, however, this site is considered, in principle, suitable for residential development within the SHELAA process (ref 154/1950) and this will not likely be changed in its next iteration.

*It is noted that planning application (WD/2018/2741/MAO) was made for the site in 2018, but was later refused by our development management colleagues in 2021. This was in part due to the location of certain dwellings within the scheme proposed and their impact on the conservation area only. It is expected that a reduced scheme, without a lesser impact on the conservation area may be supported. The appeal was withdrawn by the applicant, and this was outside of the control of WDC. Given the above, **WDC does not support this LGS designation.**"*

It is clear the Council believe that sustainable development can be delivered on this site.

Further, it is not capable of enduring beyond the end of the plan period because it would be superseded by the District Plan when this is adopted. Housing would then be allocated on the land. A 'wait and see' approach

whereby the LGS is accepted until such a time as the Wealden Local Plan does supersede it is inappropriate as the site is subject to a live application and the District needs housing now to remedy its substantial housing land supply shortfall.

In addition, the designation of LGS, require demonstration that a site is of "*particular importance*" and is "*demonstrably special to a local community*" and "*holds a particular local significance*".

The designation of Policy EHHNP Policy 7 is not supported by a proportionate and robust evidence which engages with the requirements of national policy for designation, and therefore is contrary to guidance which explains,

"Proportionate, robust evidence should 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..." Paragraph: 040 Reference ID: 41-040-20160211

Unfortunately, it instead proceeds on the basis of largely unevidenced assertions which were the subject of successful challenge in *Stonegate Homes Ltd v Horsham District Council* [2016] EWHC 2512 (Admin) which to the plan being quashed. These unevidenced assertions are noted by the District Council in the Consultation Statement for example in relation to proposed LGS 6 and 7 the LPA states:

"We are unconvinced this meets the test as being demonstrably special to the community given its peripheral location and function. WDC does not support their LGS designation."

It is unsurprising that the test is not met given it is based upon a single consultation event that took place on 12 September 2019 which just attended by just 71 members of the public in a Parish of over 1,600 people and where dissenting voices, such as Hesmonds Stud Ltd, have been deliberately eschewed through lack of engagement.

The Consultation Statement lays bare the truth, it is the Parish Council who consider these areas of land to be "*demonstrably special*", not the wider community. For example the Parish Council say in their Consultation Statement states at page 202:

"Notwithstanding this, the Parish Council strongly believes that this site is demonstrably special and a very important green gap that contributes significantly to the character of the village and its Conservation Area"(our emphasis)

The Parish Council, despite the opinion it clearly holds in relation to the land, has completely failed to demonstrate that the land is demonstrably special to the local community. This conflict with national planning policy.

Finally in relation to this issue, given the severe impact on our client's land that the proposed Neighbourhood Plan would have it was (and is) necessary for the Parish Council to consult the landowner. The Parish Council has never informed the landowner of their intention for their land or made any contact with them regarding the Neighbourhood Plan whatsoever. Page 170 of the Consultation Statement features the heading "*Proposed Local Green Space Landowners*" but what sits under it is not landowners at all, nor any evidence that they have been consulted, but instead a list of parcels of land.

The NPPG answers the question should other public bodies, landowners and the development industry be involved in preparing a draft neighbourhood plan or Order?

It confirms:

*"A qualifying body **must consult** any of the consultation bodies whose interest it considers may be affected by the draft neighbourhood plan or Order proposal. The consultation bodies are set out in Schedule 1 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Other public bodies, landowners and the development industry should, as necessary and appropriate be involved in preparing a draft neighbourhood plan or Order. By doing this qualifying bodies will be better placed to produce plans that provide for sustainable development which benefits the local community whilst avoiding placing unrealistic pressures on the cost and deliverability of that development."* Paragraph: 048 Reference ID: 41-048-20140306 (Our emphasis)

The Parish Council has roundly ignored this guidance. As such the Plan conflicts with the basic conditions as regard to national policies and advice contained in guidance issued by the Secretary of State has not been had.

Offence is also caused to Section. 61O of the Town and Country Planning Act 1990 as a result of the failure to comply with this guidance.

EHHNP Policy 2 – Housing Design – Resource Efficiency

This policy requires, inter alia, High Energy Efficiency Buildings that have a net emission rate of zero or are certified Passivhaus buildings. This is not consistent with strategic policies in the local plan or national policy. It is unreasonable to require a net zero emission rate. The aspiration for energy efficient buildings is, however, supported. This policy should be amended as it does not meet the basic conditions.

EHHNP Policy 3 – Housing Design - Layout and Materials

Criteria F should be deleted. Providing excess parking encourages car use and dissuades future occupants from utilising more sustainable transport methods which conflicts with national planning policy.

Overall, the Neighbourhood Plan does not meet the basic conditions and should not proceed to referendum.

Yours Sincerely

[REDACTED]
Director

For and on behalf of Parker Dann
[REDACTED]

