Examination of the Ninfield Neighbourhood Plan
SCHEDULE OF MODIFICATIONS
(29/05/2024)

The suggested modifications in the examiner's report are expressed as text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

The page numbers and paragraph numbering below refer to the submission neighbourhood plan, and do not take account of the deletion or addition of text.

Page	Policy/ Paragraph	Suggested Modification	Examiner's Justification	Decision
	Throughout the document	Amendments should be made however to NPPF paragraph numbering in the text of the final documents. (in covering letter with final report) All references to the NPPF should be amended if possible, and certainly in the NDP itself.	The NPPF has been amended subsequent to the submission of the Plan to the LPA. These amendments are not directly relevant to this Plan, and will not therefore impact on a consideration of whether or not the Plan meets the Basic Conditions.	NPPF paragraph numbers updated throughout to align with the December 2023 version.
	Throughout the document	The format of the document is generally good, but it is good practice to keep a policy together on one page if possible.		Where possible
94-96		Modification 1: The layout and Forward to the Plan to be amended as follows: a) The Community aspirations information to be moved to a separate section after the last section of the Plan proper has discussed Monitoring and Review, and form a separate annex to the document;	Community Aspirations have been located within the body of the Plan which does not comply with the Basic Conditions. The NPPG is clear that the Plan itself can only include land-use matters (ID: 41-004-20190509). Correcting this will not be difficult, as it	Modification made

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			may follow the Monitoring and Review section, and be noted as a separate annex to the Plan. In order that the Plan complies with the Basic Conditions and has due regard to government guidance, I recommend it is amended as shown in Modification 1a below.	
6	Forward	Modification 1 b) Paragraphs 5, 7 and 8 of the Forward (page 6) to be deleted.	There are several paragraphs in the Forward to the Plan that set out a detailed case, indeed a grievance, about the amount of development that has recently been implemented in the parish. There is a requirement on neighbourhood plans that they be positive in outlook and not promote less development than set out in the strategic policies for the area or undermine them. In my view paragraphs 5, 7 and 8 of the Forward (page 6) are challenging and critiquing strategic policy in a way that is not positive or appropriate in a neighbourhood plan. In order that the Plan complies with the Basic Conditions and pays due regard to government policy and guidance, (NPPF paras 16a and 29 and NPPG ID: 41-005-20190509), I recommend it is amended as shown in Modification 1b.	Modifications made
	Throughout the document		I am specifically limited by legislation to correcting with recommended modifications the Plan's compliance with the Basic	Modifications made

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			Conditions and other legal requirements. Notification of minor corrections needed to the text at the Reg16 stage of the process are useful, but cannot be the subject of any modifications I recommend. Where there is agreement to changes between the QB and the LPA, and the QB have indicated this in many instances, minor amendments may be made to policy and other text, as long as the intent of a policy is not altered and they are merely corrections. The LPA will be aware that it is authorised to correct minor errors in this way by Schedule 4B section 12(6) of Town and Country Planning Act 1990.	Figure 2 All Policies Map revised to make clearer
		Ninfield Parish Council and Wealden DC Changes	**Ninfield Parish Council and Wealden DC Justification**	
	Forward	Forward updated	to take account of more recent WDC documents.	
	Para 1 and 2	Para 1 & 2 reworded to alter the dates of the Wealden Local Plan period	The dates of the Wealden Local Plan no longer align with the neighbourhood plan	
	Para 7	Para 7 updated regarding 5 year HLS	The 5 year HLS position has changed since the neighbourhood plan was drafted	

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	Paras 8,9 and 10	Para 8, 9 & 10 reworded to accord with latest WDC position	The neighbourhood plan has been amended to account for the current status of the Local Plan and the most recent evidence base.	
	Para 40	Para 40 as above		
	Para 46	Para 46 updated regarding the new Wealden SA Scoping Report	A new scoping report was carried out in preparation for the Regulation 18 Local Plan consultation	
	Throughout	All references to AONB replaced with National Landscape and wording adjusted		
	Paras 94, 96, 97	Para 94 & 96 & 97	Amended to take account of the Environment Act updates Feb 2024	
	Para 111-114	Removal of reference to a Local List	The Examiner confirmed that the features cannot be considered a local list.	
	Para 114	Para 114 minor wording amendment		
	Para 122	Para 122 amended to reflect recent draft of Local Plan	The neighbourhood plan has been amended to account for the current status of the Local Plan and the most recent evidence base and housing need figures.	
	Para 124 and 127	Para 124 & 127 updated figures added	In order to bring figures up to date.	

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23-24	Policy N1 Sustainable Location of Development	Modification 2: Policy N1 to be amended as follows: 2nd paragraph to refer at the end to **'the development plan'** and delete ~~'this Neighbourhood Plan'.~~ The 3rd paragraph to be deleted.	Policy N1 Sustainable Location of Development: The LPA have pointed out that in the second paragraph of this policy the relevant policy documents are the 'development plan' not just this neighbourhood plan. Additionally, the third paragraph is merely stating that development will need to comply with the NPPF and the development plan. The NPPF requires policy to not be repetitious, and this paragraph is therefore not paying due regard to government policy. In order that the Plan complies with the Basic Conditions, I recommend it is amended as shown in Modification 2.	Modifications made
21, 36, 37 Appendix E	Policy N5 Key Views	Modification 3: Policy N5 to be amended as follows: The first sentence of Policy N5 to be amended as follows: "~~The Ninfield Neighbourhood Plan identifies~~ *Key Views* **are** ~~as~~ *shown on* **Figure 6** ~~the Policies Maps~~ *and* **identified** ~~contained~~ *in the Ninfield Key Views Assessment (Appendix E).*	Policy N5 – Key Views: Ninfield is blessed with some outstanding views across to the South Downs and the sea. However, I found the designated Key Views uneven in quality, with some not being worthy of the designation. The evidence base on which the selection is made has been criticised in the Reg16 responses, but I find it proportionate to the needs of a neighbourhood plan, and adequate for the purposes of the requirements of the NPPG (ID: 41-041-20140306).	Modifications made and Figure 6 changed

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		Key views V4; V5; V14 and V16 to be deleted from Figure 6, the list of key views in paragraph 70 in the Plan and the Policy Map. Within the Key Views Assessment (Appendix E) they may remain, but with a note that they were discounted at examination due to not being considered special enough. The last sentence of policy N5 to be altered to: *"Development proposals which would result in a* **significant** *adverse* ~~or negative~~ *impact on the landscape character or visual quality of a Key View* **within the neighbourhood area** *will not be supported."*	The NPPG requires policy to not place undue and unjustified restrictions on development (ID: 41-005- 20190509), and protecting views that are not demonstrably special would be contrary to this guidance. Additionally in order to not put undue burdens on development, the requirement needs to be that adverse impact is 'significant'. The policy needs to clearly identify the views designated, and it is Figure 6 which does this. At present the policy is too vague on precisely where this information can be found, contrary to the requirements of the NPPF (para 16d). Also, for reasons of clarity, the reference to 'or negative' impact needs to be removed. It is not clear to me in which circumstances an impact could be negative but not adverse, and so 'negative' is not needed and is potentially confusing. Finally, as one view in particular is very close to the neighbourhood area boundary, it will need to be clear that the policy only applies to development within the area. In order that Policy N5 complies with the Basic Conditions, and has paid due regard to government policy and guidance, I recommend it is amended as shown in Modification 3 below.	

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40, 44	Policy N6- Areas of Locally Valued Landscape	Modification 4: Policy N6 and Figure 7 to be amended as follows: Figure 7 to be redrawn on an OS base such that the detail of boundaries to the Areas of Locally Valued Landscapes may be clearly defined. The First sentence of Policy N6 to read as follows: "*Within the Areas of Locally Valued Landscape as identified on* **Figure 7**, ~~the~~ Policies Map, *the distinctive character and inherent scenic qualities of the area concerned as identified* ~~below (and~~ *in*	Policy N6 – Areas of Locally Valued Landscape. The Policy is offering protection to landscape that is adjacent to the National Landscape (formerly AONB) boundary of the High Weald, has significant areas of ancient woodland within it, and is generally of a high scenic value. The Landscape Study evidence document has collated evidence from other sources explaining the landscape designations and attributes and supports the designation of these areas of local landscape value. However, the Policies Map is not adequate for the purposes of defining the boundary, and Figure 7 and the map in Appendix G are not offering the clarity required by the NPPF (para16d) either. The policy includes two paragraphs of detailed description of each area that are not offering policy guidance. They repeat the landscape analysis of the Landscape Study and paragraph 68 of the Plan. Policy needs to contain requirements for development that is clear, and neither of these descriptive texts offer any immediate guidance on what will or will not be acceptable. Reference to	Modifications made and figure 7 changed to include OS 1:25,000 background.

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		this Plan and *the Landscape Study of Ninfield will be protected*." The second and third paragraphs of Policy N6 to be deleted. They may be inserted into the justification where the detail is not already available. The fourth paragraph of Policy N6 to be amended as follows: "*Development will be supported if it preserves or enhances the distinctive character and inherent scenic quality of these areas. The setting of public rights of way and public views over the landscape,* **particularly the defined Key Views**, ~~including to the sea and South Downs as well as towards the village, with special attention to the protection of the Key Views contained in Policy N5~~, *will be safeguarded from detraction by obtrusive or incongruous development. The details of siting, design, materials and landscaping (including tree and hedge planting) shall be harmonious and minimise the effect of development on the landscape".*	the evidence in the policy is the way to direct attention to the attributes that need to be conserved and enhanced. The repetition of protection of key views is not necessary as Policy N5 has addressed the point, and the NPPF (para16f) requires policy to not be repetitious. In order that Policy N6 complies with the Basic Conditions and has paid due regard to government policy and guidance, I recommend it is amended as set out in Modification 4 below.	

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48,49	Policy N7 Local Green Spaces	Modification 5: Policy N7 to be amended as follows: The first paragraph to read as follows: *"The Neighbourhood Plan designates Local Green Spaces, as shown on* **Figure 8.** ~~the Policies Map~~. ~~Development requiring planning permission in these Local Green Spaces will not be permitted unless there are very special circumstances including where the development will enhance and not compromise their primary function as Local Green Spaces.~~ *The designated Local Green Spaces are:*" The list of LGS designations to read as follows: *LG01 The Recreation Ground* *LG02 Stocks/whipping post* *LG03 Church Wood* ~~with adjacent valley slopes including Church Fields & Church Path~~ *LG04 The Allotments* *LG05 The Churchyard of St Mary the Virgin* LG06 Traditional road junctions at ~~Coombe Lane Verges~~, Standard Hill and ~~Verges~~, Bexhill Road. ~~Lower Streetverges~~	Policy N7 - Local Green Spaces. The Policies Map is generally not fit for purpose when it comes to defining boundaries of designations, and again with this policy it is Figure 8 that should be used for defining the designations in order that they have the clarity required by the NPPF. Not all of the proposed designations are acceptable, as they do not comply with the requirements of the NPPF (paras 105-106). The wording of the policy is too restrictive, the NPPF (para 107) requires that policies for managing development within Local Green Spaces (LGS) should be consistent with those for Green Belts. The proposed LGS sites numbered LG01; LG02; LG04 and LG05 are acceptable as shown. LG03 as currently shown is an extensive tract of land, and the fields are not intrinsically special. Church Wood is worthy of designation, and this designation should be altered to apply only to Church Wood. Additional designations such as ancient woodland are not a reason to withhold designation from a site – indeed they prove the worth. LG07 is currently not offering any	Modifications made. Figure 8 changed and description of LG03 and LG06 amended. Figure 8 includes detailed views of LG02 and LG06 for clarity.

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		~~LG07 Proposed recreation area behind Sparke Gardens, Manchester Road~~ Figure 8 to be amended to be consistent with the above. The boundary of LG03 to be reduced to cover only Church Wood. Proposed designation LG07 to be deleted and the boundaries of LG06 to include only the land indicated diagrammatically overleaf.	special attributes worthy of LGS designation, and this designation should be deleted. LG06 is an interesting designation, covering multiple small areas of grassland, open roadside verges. In places the designation is protecting a junction area, often with a traditional wooden road sign, and I accept that these areas are important for the visual character and beauty of the village. However much of the LGS06 designation is covering roadside verges that in themselves, even when wooded, are not special enough to warrant the designation. There is also a legitimate concern about future highway issues here. I have sketched the areas of green space within the LGS06 designation that I accept can remain, and offer these for guidance for the revised mapping required, not for use in the final plan. In order that Policy N7 and the designation of LGS in the Plan comply with the NPPF paras 105-7 and thus meet the Basic Conditions, I recommend it is amended as shown in Modification 5.	
65	Policy N9 Built Heritage	Modification 6: Policy N9 to be amended as follows:	Policy – N9 Built Heritage. The Policy is supported by an evidence base (Appendix C) which has set out criteria for assessing	Modification made

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		2nd Sentence: *"…Proposals involving the non-designated heritage assets* **and Local Heritage Areas identified in Appendix C** ~~listed in~~ **and** *this Neighbourhood Plan shall be assessed having regard to the scale of any harm or loss when balanced against the significance of the heritage asset concerned whether it be an area, building or feature…"* *Para 113 wording amended* Description of each Local Heritage Area amended (page 70-72).	buildings for local heritage interest. The evidence base needs to be referenced in the policy for identification purposes. The four local heritage areas identified in the evidence base, which the QB has confirmed they felt were covered by the term 'local heritage assets', also need to be referenced for the clarity required by the NPPF (para 16d). The LPA has criticised the evidence base for not discussing the attributes of each building designated thoroughly enough. I consider the evidence adequate for a local policy on heritage, but as the LPA are not happy with all of the analysis and features chosen then cannot be considered a formal Local List, as promoted by Historic England. In order that Policy N9 complies with the Basic Conditions and has paid due regard to government policy, I recommend it is amended as shown in Modification 6.	
67	Policy N10 Design	Modification 7: Policy N10 to be amended as follows: Criteria (a) to be altered to: "*It safeguards the distinctive character of the High Weald landscape and Ninfield's landscape features including topography, woods, trees, hedges, banks, ponds and*	Policy N10 – Design. The LPA have indicated several issues with the evidence base for this policy, particularly the Design Guide for Ninfield. One criticism is that it has borrowed verbatim too much from the design guidance of the High Weald AONB Unit. However, as part of the parish is within the AONB/National	Modifications made and para 115 amended to reflect new NPPF wording. Reference to Design Guide

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		watercourses. ~~Account shall be taken of public views (with special attention to the protection of the Key Views contained in Policy N5) and, in areas currently lacking public viewpoints,~~ **Where possible, opportunities should be** *taken to provide new public viewpoints over the landscape." …* The first sentence of criteria (b) should be amended as follows: *"…It respects the character of the High Weald vernacular and reinforces local distinctiveness as identified in the 'Design Guide for Ninfield'* **and 'The Ninfield Village Character Assessment And Heritage'** *appended to this Neighbourhood Plan, with its scale, density, layout, form, design, materials and landscaping being appropriate to its setting and observing the Design Guide for Ninfield." …* Criteria (e) to be deleted.	Landscape, and the area adjacent to this nationally designated landscape has an increased sensitivity because of that, I do not consider this makes the evidence invalid. Neighbourhood planning is an activity undertaken in a large part by volunteers, and as discussed above, evidence for the Plan needs to be judged on a proportionate basis. The AONB Authority were consulted during the production of the Plan, but did not comment. The LPA point out that the policy does not reference the Ninfield Character Assessment, and the QB agreed that this was an oversight. It is referenced and used in the design guide, and for the clarity of policy required by the NPPF it should be referenced alongside the reference to the Design Guide. The policy specifically mentions views in the first criteria, but these are dealt with in Policy N5. The requirement that the possibility of providing new viewpoints be considered is not, however, in Policy N5, and is correct to locate in this policy as it is an aspect of the design of new build. The last criteria is repetition, and only states what is understood in all planning decisions,	for Ninfield added in Justification

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			the Development Plan in its entirety guides decision-making. In order that Policy N10 complies with the Basic Conditions and has paid due regard to government policy, I recommend it is amended as shown in Modification 7.	
79, 81	Policy N13 Local Employment	Modification 8: Sites E5, E6 and E7 to be removed from Policy N13 and Figure 14 and supporting text to be amended to remove reference to these sites.	Policy N13 – Local Employment. The QB have realised that some of the sites designated as employment sites are within safeguarded waste sites and their consultation zone in the Waste and Minerals Local Plan (2013) and Sites Plan (2017) of East Sussex CC. Any designation as employment sites would therefore not be in general conformity with the Development Plan, and would be amending a policy concerned with excluded development. Consultants for Tarmac, the owners of site E7, also point out in their Reg16 response that in the Waste and Minerals Sites Plan their site is safeguarded for the production of concrete products (policy SP10). For these reasons the sites E5, E6 and E7 should not be subject to policies in this Plan. In order that Policy N13 complies with the Basic Conditions, does not deal with excluded development and is in general	Modifications made and para 159 re-written. Figure 14 replaced. In the first sentence of the third paragraph, the word 'be' has been removed.

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			conformity with the development plan, I recommend it is amended as shown in Modification 8. An issue was raised with the inclusion within the policy of reference to 'sui generis' uses. The reference is to specific existing sui generis employment-generating uses however, protecting the existing use. In these circumstances I do consider that the policy is encouraging the full range of sui generis uses, but it is responding to local circumstances - as expected in a neighbourhood plan.	
83	Policy N14 Sustainable Rural Business	Modification 9: The first sentence of Policy N14 to be amended as follows: "*Sustainable rural business* **development outside of the settlement boundary** *which creates local employment opportunities and economic, social and environmental benefits for the local community will be supported provided it:- …."*	Policy N14 Sustainable Rural Business There was confusion as to where this policy was meant to apply, for example from the LPA in their Reg16 response. I agree, that without further clarity on this point the definition of 'Sustainable Rural Business' is not clear. Discussion during this examination has clarified that the policy is meant to apply to employment development outside of the settlement boundary. Criteria f) in the context of this policy is accepted as a clarification for the avoidance of doubt that other policies are not overridden by Policy N14. With clarification of	Modification made and para 167 wording amended in line with NPPF

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			the definition of 'sustainable rural business' the policy will comply with the Basic Conditions, and I recommend therefore that Policy N14 is amended as shown in Modification 9 below.	
84-85	Policy N15 Infrastructure	Modification 10: <u>The First sentence of the second paragraph of Policy N15 to read as follows:</u> "….**Where appropriate**, *new development should demonstrate that* ……"	Policy N15 – Infrastructure. The policy sets out local priorities for infrastructure provision. The priorities are land-use aspirations and so acceptable within the NDP. It is not reasonable for all development to have to consider local infrastructure needs however. The NPPG requires neighbourhood plan requirements to not undermine the deliverability of the Plan, and this requirement should only apply to relevant developments, often major development but not always. In order that Policy N15 complies with the Basic Conditions, and has paid due regard to government policy and guidance on clarity (NPPF para16d) and deliverability (NPPG ID: 41-005-20190509), I recommend it is amended as shown in Modification 10.	Modification made