

WADHURST NEIGHBOURHOOD PLAN 2016-2039

SUBMISSION VERSION

REPORT OF EXAMINATION

By

Christopher Lockhart-Mummery KC

Independent Examiner

January 2024

SUMMARY

I was appointed by Wealden District Council (WDC) with the support of Wadhurst Parish Council (WPC) on 16 November 2023 to undertake the examination of the submission version of the Wadhurst Neighbourhood Plan 2016-2039 (NP).

The neighbourhood area was designated by WDC on 8 November 2017 for the whole of the Parish. The area is shown on Figure 1.1 of the NP.

A Consultation Statement sets out the local engagement and consultation which was undertaken. I am satisfied that the level of consultation amply met the relevant statutory requirements.

I decided that the statutory conditions for holding a hearing did not exist, and the examination proceeded on the basis of the documents only, together with my visits to the area.

I conclude that overall the NP is well researched, well-evidenced and clearly laid out and written. If made, the NP will become a key part of the statutory development plan.

I have found a number of instances where modifications are required, to ensure conformity with the Basic Conditions.

I recommend that, subject to those modifications being made, the NP should proceed to referendum.

I see no reason to recommend that the area covered by the referendum should differ from the neighbourhood area.

CONTENTS

Pages

Introduction	1
Wadhurst in Context	1-2
The Local Plan	2-3
Evolution of the NP	3
SEA and HRA	3-4
The Examination Process	4
Basic Conditions – General	4-5
Other statutory requirements	6
Assessment of NP	6-21
Conclusions	21-22

Introduction

1. I was appointed on 16 November 2023 by Wealden District Council (WDC) with the agreement of Wadhurst Parish Council (WPC), the qualifying body, to undertake the examination of the Submission Plan, April 2023, of the Wadhurst Neighbourhood Plan 2016-2039 (the NP).
2. I am a King's Counsel with over 40 years' experience of planning law and practice. I am a member of the NPIERS Panel of Independent Examiners. I am independent of any local connections or interests, and have no conflicts of interest.

Wadhurst in Context

3. On 8 November 2017 WDC designated, at the request of WPC, a neighbourhood area for the whole of the Parish. The neighbourhood area is shown on Figure 1.1 of the NP.
4. An excellent "portrait of the Parish" is contained in Chapter 2 of the NP, "About Wadhurst". Wadhurst village is a historic market settlement, granted a Royal Charter in 1253, located within the High Weald AONB (as it was then called, see below). Paragraph 2.6 states:

"The Parish is at the northern extremity of East Sussex and lies six miles south of Royal Tunbridge Wells on the east-west Forest Ridge of the Sussex and Kent Weald. It covers an area of 15.5 square miles and includes the main residential areas of Wadhurst village, Durgates, Sparrows Green, Turners Green, Pell Green and Cousley Wood. Smaller hamlet communities comprise Primmers Green, Woods Green, Tidebrook, Best Beech and Stone Cross/Moseham. The population of the Parish has now risen to over 5,000 living in approximately 2,500 households".

5. The unique natural beauty of the High Weald was recognised in 1983 with its designation as an AONB. Areas of Outstanding Natural Beauty have, since 22 November 2023, been designated as National Landscapes. That designation "washes over" (i.e. includes) the village and its related residential areas and

communities (as described above). Wadhurst village has a popular High Street, but the narrow B2099 High Street is now often traffic congested and gridlocked and has a shortage of parking. The volume of traffic has increased significantly over recent years.

6. There are many heritage assets within the Parish. These include over 150 listed buildings and two conservation areas. These are the conservation area around the High Street (Wadhurst Conservation Area), and the conservation area for Cousley Wood including Pell Green (Pell Green and Cousley Wood Conservation Area).
7. With its numerous countryside footpaths, clubs and leisure opportunities and connections via road and rail to the rest of the UK, Wadhurst is a popular place to live and work. The Parish boundary incorporates parts of Bewl Water, the largest inland body of water in south east England.

The Local Plan

8. The development plan for the neighbourhood area comprises, so far as relevant, the Core Strategy Local Plan, the Affordable Housing Delivery Local Plan (May 2016) and the “saved” policies of the Wealden District Local Plan. (There are additionally Waste and Minerals Plans, which are not relevant to the Examination). So far as relevant to this report, the “local plan” includes the saved policies (saved in 2007) of the Wealden District Local Plan (1998), 1994-2004. When I refer below to the local plan, the references are to this document. In addition, there is the Wealden District Core Strategy Local Plan (February 2013), 2006-2027. While the local plan is considerably out-of-date in many respects – not only by the passage of time but by the advent of national policy in the form of successive issues of the NPPF (and related Guidance) – it remains a critical factor for the purposes of my statutory functions (see, especially, in relation to basic conditions, below).
9. Table 4.1 of the Basic Conditions Statement sets out the position of WPC as to the compliance of the NP policies with the adopted development plan.

10. WDC has for some time been seeking to promote a new local plan, to replace the current adopted version. Regulation 18 consultation was due to commence in January 2023. Changes in national policy and legislation prevented this. The present position is that WDC intend to consider a draft local plan on 8 February 2024, with formal Regulation 18 consultation to follow.

Evolution of the NP

11. The Neighbourhood Planning (General) Regulations 2012 set out a legal requirement at Regulation 15 that the submission of a neighbourhood plan proposal to the local planning authority must include certain documents, amongst which is a “consultation statement”. The Consultation Statement (CS) – April 2023 – was duly published and submitted.
12. Comprehensive details of consultation and engagement are set out in the CS. Regulation 14 consultation took place in two phases. The first Regulation 14 consultation took place between 17 June 2021 and 15 August 2021. Following significant changes to the NP and the addition of a Design Code prior to Regulation 15, WDC advised that a second Regulation 14 consultation should be undertaken, and together with revised SEA and HRA Screening Opinions and a Sustainability Appraisal November 2022, a second Regulation 14 consultation was held between 14 November 2022 and 3 January 2023.
13. The actions taken by WPC, and the responses made to the second Regulation 14 consultation, are set out in detail at paragraphs 2.51-2.89 of the CS.
14. The amended NP was thereafter submitted to WDC. Regulation 16 consultation took place between 5 June 2023 and 17 July 2023. Twenty-seven representations were received: this number includes responses by bodies who had no comment, and the comprehensive comments of WDC. I have carefully considered all comments received.

15. I am satisfied that the level of consultation amply met the statutory requirements.

SEA and HRA

16. In accordance with Regulation 9 of the SEA Regulations 2004, WDC – as responsible authority – determined in October 2022 that a Strategic Environmental Assessment (SEA) was not required as the NP’s policies are unlikely to have significant environmental effects.
17. In accordance with the Habitats Directive and the UK Habitats Regulations, WDC determined that the NP was unlikely to have significant impacts on European Sites and therefore did not require a full assessment.
18. Both of the above “negative” screening opinions are largely a consequence of the fact that the NP proposes no housing (or other) development allocations.
19. I have no reason to doubt the legal validity of the above opinions.

The Examination Process

20. I have referred to my appointment above. The examination commenced on 23 November 2023.
21. On 30 November I issued my Examination Note 1 to WDC. This recorded my decision that the statutory conditions for the holding of a hearing did not exist, and therefore that the examination would proceed on the basis of the documents, the responses to certain queries raised in Note 1, and my visit(s) to the area.
22. On 8 December I received responses from WDC, WPC, and Kember Loudon Williams (on behalf of the controlling interests in Bewl Water).

23. I visited the area on 13 and 14 December 2023. I should emphasise that these visits were very influential on the judgments I have made in the examination, especially in relation to Green Gaps and Local Green Spaces (LGS).

Basic Conditions - General

24. Schedule 4B paragraph 8(2) to the Town and Country Planning Act 1990 provides that a neighbourhood plan meets the Basic Conditions if it meets those specified in paragraphs (a), (d), (e), and (f). One further basic condition has been prescribed under paragraph 8(2)(g), as follows:

“The making of the neighbourhood development plan is not likely to have a significant effect on a European Site...or a European Off-shore marine site...either alone or in combination with other plans or projects”.

25. As the courts have frequently emphasised, as I do now, the role of a Neighbourhood Plan Examiner is tightly constrained. It is (apart from dealing with other statutory requirements referred to at paragraphs 28-32 below) confined to considering compliance with the basic conditions. The Examiner cannot consider anything else: paragraph 8(6), Schedule 4B above. Therefore the Examiner is not able to consider whether – as would be the case for a local plan – the NP is “sound” (in accordance with paragraph 35 of the NPPF). Accordingly, the Examiner can only consider the content of the NP (the planning judgments made, the choices made, the views regarded as important etc.) insofar as those matters impact on the basic conditions. This inevitably limits, significantly, the extent to which it is proper to respond to what I might call wider “planning merits” points made by representors.

26. Advice is given in national planning guidance (NPPG 41-041-20140306) as to the drafting of policies:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning

context of the specific neighbourhood area for which it has been prepared.”

This has guided me in a number of comments on policies and text in the NP.

27. I address the criteria in the basic conditions where relevant as I assess, below, the contents of the NP.

Other statutory requirements

28. These are set out in the Town and Country Planning Act 1990 (as amended) and sections 38A-38C of the Planning and Compulsory Purchase Act 2004.
29. The NP was prepared and submitted for examination by a qualifying body: section 38A.
30. It has been prepared for an area designated under section 61G of the 1990 Act.
31. The NP meets section 38A(2) in that it sets out policies in relation to the development and use of land in the neighbourhood area.
32. Section 38B requires the NP to specify a period for which it is to have effect. This is complied with (2016-2039). The NP does not include provisions about development which is excluded development, and does not relate to more than one neighbourhood area.
33. Sections 98 and 99 of the Levelling Up and Regeneration Act 2023 contain provisions amending some of the existing provisions relating to neighbourhood plans. These new provisions are not yet in force.

Assessment of NP

34. As indicated above, the remit of this examination is significantly more limited than is the case for a local plan examination, but is confined to compliance with the above statutory requirements. Where a particular policy and/or supporting text does not raise any such compliance issues I shall make limited comment accordingly. My main comments and consequent recommendations therefore relate to passages where modifications are required.
35. I would like to pay tribute to two particular aspects of the NP, the first substantive and the second presentational. First, section 3 sets out the Vision and Objectives. These are clearly derived from the responses to consultation,

and are clearly expressed. Second, the Figures (including plans and photographs) are all of an unusually high standard, being clear, legible, and immensely helpful guides to the context and Policies of the NP.

36. Throughout the NP there is a general need to update references to documents/evidence/policies etc. that are referred to. For example, the NPPF references are to the July 2021 version, replaced until recently by the September 2023 version. On 19 December 2023 (whilst I was concluding this Report) the September 2023 version was in turn replaced. Amendments will have to be made to the NPPF paragraph numbers, as appropriate. There are, again by example, out of date references to a number of statistical matters and the like, such as housing need figures, land supply figures and Building Regulations. Most of these are referred to in the WDC comments. The term AONB has been replaced by National Landscape. I **Recommend** accordingly.
37. I have referred to the comments made by WDC to assist this examination. I note the concern expressed that many of the proposed environmental designations such as Green Gaps and Locally Valued Views – and I would add, Local Green Spaces-- cover sites that have been submitted to WDC as part of its Strategic Housing and Economic Land Availability Assessment (SHELAA). I will consider this theme further in the context of specific policies.
38. On page 2 of the Foreword to the NP, there is a reference to the use of Community Infrastructure Levy (CIL) receipts from the neighbourhood area being “used to finance infrastructure projects”. To ensure compliance with legal and national policy requirements in this area, this reference should be qualified by “that are required as a result of new development”. I **Recommend** accordingly.
39. Turning to the substantial and (in parts) controversial topic of the Spatial Strategy and Policy WAD1 (in section 4), there are two significant topics that call for particular consideration, Green Gaps and Local Green Spaces. (I consider the latter below).

40. The proposed designation of Green Gaps is first addressed at paragraph 4.1, it being stated:

“The identification of Green Gaps will help to avoid sprawl and coalescence between the individual settlements and those beyond the Parish boundary.”

Nine green gaps have been identified and are shown on Figure 4.2. Detailed justification for each Gap is contained in Appendix A, Identifying Green Gaps. They are variously referred to as “green gaps” or “strategic gaps”. Their purpose is variously described as preserving the physical and visual separation of settlements, or settlement communities, as having a landscape function, and to “protect against ribbon development”. Appendix A describes the methodology and selection criteria undertaken and applied.

41. There is no strategic policy contained within WDC’s development plan framework relating to green gaps or coalescence. The main policy approach of WDC to safeguard land in the countryside is “development boundaries” that derives from saved policies of the Local Plan (1998) GD1 and GD2. Those policies are in typical form, i.e. to support development within the boundaries and generally resist new development outside those boundaries. While development boundaries in Wadhurst may well be reviewed as part of the emerging local plan, the policy approach is, in my view, unlikely to change. Indeed, paragraph B of WAD1 would give strong support to that approach. Neither national policy nor guidance provides specific support for a green gap/coalescence policy.
42. In addition to the development boundary constraint in the development plan, there is the nationally based policy constraint by virtue of the National Landscape, which applies to the whole of the neighbourhood area. Further, in relation to certain of the proposed Green Gaps, there are heritage constraints in play.
43. Accordingly, in my opinion there is and will be a raft of policies and constraints that would strongly control inappropriate or damaging development, without the

need for a further constraint, especially one whose purpose – see paragraph 40 above – seems somewhat inconsistent and confused.

44. I also note that there is a clear overlap between the Green Gap designations and sites submitted to the SHELAA process. Green Gaps 1, 2, 5, 6 and 9 have all been put forward by landowners for consideration to meet future housing need and Gap 7 is adjacent to a SHELAA site. I share the concern of WDC, by reference to national policy and planning guidance, that a neighbourhood plan should plan positively and not be used as a mechanism to constrain development.
45. I have given very careful consideration to the Green Gap concept, being fully aware of its local support. However, I conclude that this proposed policy concept is not supported by national policy or guidance, will tend to constrain appropriate sustainable housing development, and is contrary to the strategy of the development plan. It should therefore not be included in the NP.
46. For the sake of completeness, I viewed each of the Green Gaps. I found that most of them do not perform a genuine function of preventing coalescence between settlements or parts of settlements.
47. I therefore **Recommend**:
 - (i) that all references in the text to Green Gaps be deleted (including in the Glossary at page 104 and Table F1 in Appendix F);
 - (ii) that paragraphs 4.17-4.21 (and the heading) be deleted;
 - (iii) that in Policy WAD1 the sub-heading green gaps and paragraph C be deleted;
 - (iv) that Figure 4.2 be deleted;
 - (v) that references to green gaps on Figure 14.1 (Policies Map) be deleted; and
 - (vi) that Appendix A and references thereto should be deleted.
48. Returning to the remainder of Policy WAD1, paragraph A addresses development boundaries. Those development boundaries are bound to change

in the emerging local plan, and therefore there will be a mismatch between this paragraph and the later local plan. I therefore **Recommend** deletion of the first sentence and its replacement with: “Development in the neighbourhood plan area will be supported within development boundaries defined in the current adopted local plan”.

49. Paragraph B refers to saved policies EN6 and DC17 of the local plan. Policy EN6 does not resist all development within the AONB. In the interests of conformity this reference should be deleted. Policy DC17 is very outdated, and has long been overtaken by national policy. I therefore **Recommend** that in line 4 the entire phrase in brackets should be deleted.
50. In paragraph Bi there are two “appropriates”. In the interests of clarity I **Recommend** that the (second phrase) “as appropriate to” be deleted and replaced with “consistent with”.
51. In paragraph Bii, and in agreement with WDC, the need to demonstrate a positive contribution to the objectives of the AONB Management Plan sets too high a bar. It is inconsistent with national and local AONB policy, would tend to constrain appropriate development in the AONB, and I therefore **Recommend** that the phrase “demonstrate a positive contribution” be deleted and replaced by “have regard to”.
52. Paragraph Bviii relates to the provision of a clubhouse at Bewl Water in accordance with Policy WAD14. I **Recommend** that this sub-paragraph be deleted, since I address Policy WAD14 below.
53. As WDC have raised, paragraph B would exclude some development that would be acceptable, under the terms of the Local Plan, outside the development boundary, such as replacement dwellings, residential extensions and the like. This is inappropriate, and I **Recommend** the addition of a new exception (which would now be numbered viii) as follows: “it comprises development which would be supported by the Local Plan”.

54. I turn to Policy WAD2: Meeting Local Housing Needs. Paragraph B seeks that housing mix should be assessed by reference to the most recent Local Housing Needs Assessment. This needs to specify that it is the WDC LHNA that is being referred to, and I therefore **Recommend** that this should be identified as such. The mix assessed by WPC – referred to in paragraph 5.10 of the text, and paragraph B10 and Table B4 of Appendix B – is not relied on in the Policy. I therefore **Recommend** that the text in paragraph 5.10 (after “the property ladder”) and Figure 5.3 be deleted, along with paragraph B10 and Table B4 of Appendix B.
55. In their comments on paragraph C, WDC draw attention to the inconsistency between a First Homes requirement of 25% (at least) and the percentages in Policy AFH1 of the Affordable Housing Delivery Local Plan. This discrepancy should be resolved, and I **Recommend** that appropriate changes are made to paragraph C and the supporting text.
56. I turn to Policy WAD3: Design and character of development. The NP rightly emphasises the importance of development proposals complying with the highest design standards. To that end, the NP Steering Group commissioned Create Streets to develop the Wadhurst Design Code (DC). The DC was informed by substantial local engagement. It forms an integral part of the NP, as Appendix C.
57. Policy WAD3 is in three parts. Paragraph A sets the overall objectives of achieving good design, including supporting innovation in design. I have no concerns here. Paragraph B provides detailed design requirements, and runs to some three pages. It is prescriptive, somewhat repetitive, and in large measure duplicates the DC (with occasional contradiction). I do not consider that paragraph B complies with the basic conditions: it is very far from being “concise”; being prescriptive, it may tend unnecessarily to constrain sustainable development; and having elements of contradiction of the DC it is not as “clear” as it should be. I **Recommend** that paragraph B be deleted and replaced with:
“Development proposals must ensure that they achieve a sense of place by protecting and enhancing the quality, distinctiveness and character of

settlements and minimising the impact on the local environment. Proposals should demonstrate how they have complied with the Wadhurst Design Code and address site context, residential amenity, local character, design and landscape, biodiversity and open space, as they are appropriate to their scale, nature and location”.

58. I have no concerns in relation to paragraph C.
59. Turning to the DC (Appendix C). This was the subject of detailed comments by WDC at the Regulation 14 stage. In the submission NP, WPC responded to a small proportion of these comments. WDC have maintained, at Regulation 16, a long list of detailed comments, running to 31 pages. I have carefully considered the extent to which the DC, and the continuing issues between WPC and WDC, raise basic conditions issues. The vast majority of the disagreements that arise are matters of planning judgment, as to which my role, if it exists at all, is extremely limited. Likewise, although WDC point to a number of contradictions with the local plan and/or Core Strategy, these do not raise a basic condition issue of themselves – basic condition (e) is whether the NP as a whole conforms generally to the LP/CS as a whole.
60. Doing my best to restrict my recommendations within the statutory remit, I make the following **Recommendations**:
 - (i) paragraph 2.1 permits infill development in the town centre “though not in gardens”. This contradicts saved policy GD1 of the LP and national policy concerning development in built-up areas. I **Recommend** deletion of these words;
 - (ii) section 5 addresses Public Space. The contents of the whole of this section (paragraphs 5.1-5.2) do not constitute land use policies, but are matters for the highway authority or other statutory providers. However desirable the objectives may be, they are more properly described as community aspirations, and should be identified as such. I so **Recommend**.

Otherwise, I congratulate the authors of the NP and their advisers on the high quality of the DC.

61. Policy WAD4 addresses Sustainability and Design. This is generally a very appropriate policy. I have only minor concerns, relating to the need for clarity and consistency. There is repetition and overlap between criteria Aiv and vi. I **Recommend** that these criteria should be amalgamated into one, with repetition (e.g. “energy generation” twice in criterion iv) avoided. Heat pumps should include air source as well as ground source.
62. In paragraph C, I assume that this is intended to relate to major (infrastructure) development within the National Landscape, which is subject to paragraph 183 of the NPPF. There is a need for consistency with that policy, which paragraph C may not achieve. Paragraph 183 is a stringent policy, and I see no need for paragraph C. I therefore **Recommend** its deletion.
63. Policy WAD5 is directed to Conserving Heritage Assets. I have concerns over aspects of the Policy and the supporting text. In relation to non-designated Heritage Assets, paragraph 6.28 asserts that non-listed entries in the Historic Environment Record should be considered as non-designated HA’s and therefore be subject to Policy WAD5. This is not correct, as the Historic England Guidance on local heritage listing (e.g. paragraph 61) makes clear. The network of historic routeways are stated to be non-designated HA’s. As I understand it, there has been no analysis against recognised criteria to justify this. Likewise, although Turners Green “Boxing” Fields 2 and 3 (LG11 and LG12) undoubtedly have some historic and cultural interest, it is not clear how this relates to the character of the sites themselves in their existing condition. I question whether more detailed assessment could properly enable these fields to qualify as non-designated HA’s.
64. More generally, national policy and guidance contain stringent policies related to conserving and enhancing the historic environment (see chapter 16 of the NPPF). The courts have provided detailed guidance as to the meaning and effect of most aspects of these policies, including the weight to be given to various

factors in the assessment of proposals. This has the effect that proposals affecting HA's can be assessed in an informed and consistent manner. Once – as I shall recommend – references to local features (the non-designated HA's) are removed, I see no need for a further level of policy.

65. Appendix D sets out the criteria proposed for the identification of non-designated HA's. Such assets can be nominated for inclusion on the Local List, subject to assessment by WDC or WPC if part of a future review of the NP. I recommend below that the process in Appendix D may, not “should”, be used. I therefore Recommend that in paragraph D1, first sentence, “may” should be substituted for “should”, and that the second sentence be deleted and replaced by “Such assets would be subject to Policy WAD5 (Conserving Heritage Assets) and may be nominated for inclusion on any Local List prepared by WDC”. In paragraph D3 the second and third bullet points should be deleted. Paragraph D4 should be deleted, since it appears to be a surplus instruction. Since - as indicated above – more detailed assessment might, theoretically, justify Turners Green Boxing Fields 1 and 2 as non-designated HA's I **Recommend** deletion of paragraph D5.
66. Accordingly, I consider that proper regard will be had to national policy and guidance for the treatment of HA's, and in the interests of clarity and consistency, I **Recommend** that:
 - (i) Paragraphs 6.28-6.34 of the text (including Figure 6.5) should be deleted, and replaced with:
 - “6.28 National Planning Practice Guidance supports the identification of non-designated heritage assets through the neighbourhood planning process. Appendix D sets out the criteria which may be used for the identification of such assets. (The Historic Environment Record contains details of heritage assets in the Parish, some of which are not nationally listed. The Record should be consulted by potential developers).
 - 6.29 Chapter 16 of the NPPF sets out the policies which apply for conserving and enhancing the historic environment”.

(ii) Policy WAD5 be deleted and replaced by:

- “A. Proposals affecting heritage assets will be assessed in accordance with national policy in Chapter 16 of the NPPF.
- B. Non-designated heritage assets within Wadhurst Parish may be identified using the criteria set out in Appendix D.”

67. I have no comments on Policy WAD6, Conservation Areas.
68. Policy WAD7 relates to Safe and Sustainable Movement, and reflects the concerns of the local community on this topic. I have only one aspect of concern. Paragraph C appears – as drafted – to be an instruction to the highway authority. If this is intended, it is not a land use policy and I **Recommend** that it be deleted. It could be described as an aspiration/action in the supporting text.
69. However, if it is intended to relate to works in the highway whose need arises from development – and therefore would be likely to be included within a section 106 obligation – then paragraph C could survive in principle. On this assumption, I **Recommend** that in line 1 “related to” should be deleted and replaced with “required in relation to development and involving”; and that the fourth word of the second sentence “must” should be deleted and replaced with “should”.
70. The subject of Policy WAD8 is likewise a matter of strong local concern. However the Policy is not appropriate for the NP. The scope of Transport Assessments/Transport Statements is a matter for the highway authority depending on the development in question. Paragraph C – and the supporting text – could be removed to be a community aspiration. I therefore **Recommend** that Policy WAD8 – and its supporting text – be deleted.
71. I have no comment on Policy WAD9, Car Parking Provision, or its supporting text.

72. Policy WAD10 addresses Employment Retention and Local Economic Viability. In making my limited recommendations, I have taken the WDC comments on this policy into account. I have two concerns:
- (i) Paragraph B states that, inter alia, uses B2 and B8 (as well as Class E (a and b) and F) will be particularly supported as increasing footfall in the High Street and other shopping areas “to secure the vitality and viability of these areas”. The inclusion of B2 and B8 uses in this context is quite inappropriate, and contrary to NPPF policy for these areas (they are not included as town centre uses). To address national policy, I **Recommend** that “B2, B8” be deleted.
 - (ii) Paragraph D does not support conversion/change of use of retail/business/services to residential development in the High Street at ground floor level “notwithstanding permitted development”. This reference is to Class MA of Schedule 2 to the GPDO. However, as correctly noted in paragraph 8.5 of the supporting text, this deemed planning permission does not apply to buildings in an AONB/National Landscape – the whole of Wadhurst lies within the AONB/National Landscape. Therefore this phrase is unnecessary, and confusing, and in the interests of clarity I **Recommend** the deletion of this phrase.
73. Policy WAD11 addresses Supporting Sustainable Rural Tourism. Policy TM1 of the local plan, which reflects the “positive stance” adopted towards tourism (paragraph 10.4), is a generally permissive policy for “new or extended tourist attractions and facilities”, subject to criteria, including the enhancement of the environmental quality of the area, and the need for “particular care” in the AONB, in accordance with Policy EN6 of the Plan. Policies TM1 and EN6 are strategic policies of the local plan. Paragraph 88 of the NPPF seeks to enable the sustainable growth and expansion of all types of businesses in rural areas both through the conversion of existing buildings and well-designed new buildings. Paragraph 182 gives “great weight” to conserving and enhancing landscape and scenic beauty in the AONB/National Landscape.

74. Policy WAD11 supports the diversification of existing tourism facilities, subject to criteria. Paragraph 8.14, the opening sentence of WAD11 and criterion i would limit tourism development to the redevelopment and diversification of an existing building, reflecting an issue strongly voiced through the Household Survey. It is clear, in my view, that this restriction is inconsistent with the local plan and national policy, as referred to above.
75. Criterion iii requires there to be demonstrable economic and social benefits to the proposals. Since the local plan and national policy support tourism development in principle, it is inappropriate to require these benefits to be identified.
76. Accordingly I **Recommend**:
- (i) that the second sentence of paragraph 8.14 be deleted;
 - (ii) that the second, third and fourth sentences of paragraph 8.15 be deleted;
 - (iii) that Policy WAD11 be deleted and replaced with:
 - “In order to encourage day and staying visitors, proposals for tourism development will be supported where the following criteria are met:
 - i the proposal addresses the concept of sustainable rural tourism regarding green travel, sustainable employment and the production and consumption of local produce and materials; and
 - ii the proposal would not generate any unacceptable impact on the amenity of residential properties and on the capacity and safety of the local highways network; and
 - iii any new infrastructure or changes to existing infrastructure related to tourism should consider appropriate sustainable infrastructure from the outset, including Active Travel, EV charging, bike racks and drying rooms”.
77. Policy WAD12 deals with Communication Infrastructure Support. Paragraph A states that major development proposals should require the installation of fibre optic connection services to all properties “and preferably multiple properties

access”. This phrase is unclear, as well as being awkward grammar. In the interests of clarity I **Recommend** its deletion and replacement with

“A Major development proposals should require the installation of fibre optic connection services to all the properties on site. Preference will be given to the installation of connections to multiple properties, where practicable, to reduce the number of installations required”.

78. Policy WAD13 deals with Conservation of the Natural Environment etc. I have no concerns or recommendations to make, but invite WPC to make the minor textual corrections identified by WDC in relation to paragraphs 9.3, 9.7, 9.10 and 9.11.
79. Policy WAD14 is concerned with Bewl Water Reservoir and Associated Activities. Bewl Water is the largest body of water in south-east England, extending to some 800 acres, all lying within the AONB. The part lying within Wadhurst Parish is shown on Figure 9.3. The attributes of Bewl Water are well described in the supporting text. The recreational operations at Bewl Water are under the control and management of private interests, and in order to support the maintenance of the area (in the interests of its natural beauty) and public access, the operations must clearly remain financially viable. The aim of the policy appears to be to support “the establishment of clubhouse facilities for member-run water sport clubs...accessible to the local community” (“as opposed to a landlord-run club”): WPC Response to my Note 1. Hence the policy would support development proposals within Use Classes F2(b) and (c), (b) being “a hall or meeting place for the principal use of the local community”.
80. I have considerable concerns over this policy. In my view, the material background aspects that arise are (i) the general encouragement to sustainable tourism development in the local plan (which I assume will inevitably continue in a future local plan) and the NPPF, (ii) the stringent constraints by virtue of the AONB/National Landscape, and (iii) the need for the recreational activities at Bewl Water to be sustained and maintained on a viable basis. This last factor would be put at risk – to the detriment of both the local economy and

AONB/National Landscape objectives – by restricting any built development to be for the principal use of the local community.

81. In the interests of conformity with the local plan and national policy, and also in the interests of clarity and conciseness I therefore **Recommend:**

- (i) That Policy WAD14 be deleted and replaced by:

“A. Proposals for tourism-related development in the Bewl Water area as shown on Figure 9.3 will be supported (subject to complying with other relevant neighbourhood plan and strategic policies) provided they:

- i are guided by the landscape change and adaptation strategy set out in the East Sussex Landscape Character Assessment, Area 7 Bewl Water Character Area; and
- ii protect nature conservation, biodiversity, dark skies and quiet recreation; and
- iii promote sailing, rowing, canoeing or the use of other small non-motorised recreational craft or fishing or similar on-water activities; and
- iv maintain and (where practicable) further enhance the publicly accessible network of open spaces and public rights of way; and
- v encourage native waterside planting appropriate to the area.

B. Proposals for the repair, maintenance, enhancement or rebuilding of bridges, culverts, land drains, pipelines, dam wall, car and boat parks, roadways, slipways, jetties or similar infrastructure will be supported, subject to criteria i, ii, iv and v above.”

- (ii) In the supporting text, that paragraph 9.27 and the second and third sentences of paragraph 9.28 be deleted (with re-numbered paragraphs accordingly).

82. Policy WAD15 seeks to protect distinctive and highly valued views, which are described in Appendix E. I note that many of the views pass over potential housing sites under consideration. It would not be appropriate for this policy to constrain meeting the need for sustainable development, especially housing. However, I do not read the policy as having that effect. Paragraph 9.36 of the

supporting text makes that clear. The key themes are mitigation and design. To ensure that sustainable development is not frustrated, I **Recommend** the deletion of the second sentence of paragraph A of the Policy, and its substitution by:

“Should development be proposed within the key views shown on Figures 9.3-9.5, the impact on the relevant view will be carefully considered. A prime factor in the decision will be whether the development can be designed in a way that safeguards the view”.

83. Policy WAD16 seeks to identify and protect Local Green Spaces (LGS). Paragraphs 105-107 of the NPPF set out policies for the designation of LGS in neighbourhood plans.
84. Following a survey of green spaces in Wadhurst, sixteen potential green spaces were identified. These have been reduced to ten proposed green spaces (retaining their original numbering) in the NP. Maps, and detailed justification for each space are shown in Appendix F and on Figure 9.6. The assessment of which spaces meet the paragraph 106 criteria is a matter of planning judgment, and my judgments have been heavily influenced by my visits to each area. I note the need to avoid LGS designation where the purpose may be to prevent sustainable development (paragraph 105).
85. I conclude that the following spaces meet the criteria: LG3, LG4, LG6, LG8 and LG10.
86. I conclude that LG7, LG11-12, LG13 and LG16 do not meet the criteria. My reasons in summary are:

LG7 - this site does not appear to me to meet the paragraph 106 criteria in terms of the characteristics of the land. Further, I do not consider it sufficiently “local” to the main body of the community.

LG11 and LG12 – these sites (considered under Policy WAD5 above) do not have historical features present in the condition of the land. I do not consider them local.

LG13 – this is an extensive tract of land, remote from the Wadhurst communities.

LG16 – I do not consider this to meet the paragraph 106 criteria (and I note that it is currently being considered through the SHELAA process).

87. I therefore **Recommend:**

- (i) That in paragraph 9.41 of the text, “ten” should be replaced by “five”, “by the Steering Group” should be deleted, and the list should comprise only those LGS specified in paragraph 84 above.
- (ii) Paragraph 9.42, and Figure 9.6 should only identify/show the five LGS referred to above, and Appendix F should be reduced accordingly.
- (iii) In Policy WAD16, the reference to “ten” should be changed to “five” and the list reduced accordingly.
- (iv) The last sentence of the Policy should be deleted and replaced with:
“Development proposals within the designated local green spaces will be considered consistently with national policy for Green Belts”.
- (v) Paragraph D of Policy WAD1 should be deleted, as it merely duplicates Policy WAD16.

88. I have no comments on Policy WAD17, Protection of Dark Skies.

89. Policy WAD18 deals with Community Facilities. Importantly, paragraph 10.2 of the text states that “Accessible community facilities provide important places for people to meet...”. In my view, that is the essence of a community facility which is deserving of planning policy protection. Commercial premises such as pubs are indeed places where people meet, but they are subject to other protection, e.g. Policy WAD10. The Church does not need protection. Car

parks, footpaths, the fire station and the sewage works are not community facilities in the (correct) sense of paragraph 10.2.

90. In the interests of consistency and clarity, I **Recommend** that the list in paragraph 10.3 of the text and paragraph C of the Policy (and Figures 10.1-10.3) refer only to the following (9):

- b St. George's Hall, Sparrows Green
- d Commemoration Hall, High Street
- e Institute Building, High Street
- g Commemoration Playing Fields, Washwell Lane,
- j Carillon Cottage, High Street,
- k Sparrows Green Recreation Ground and Pavilion;
- n Uplands Gym, Lower High Street
- t Youth Centre, Lower High Street
- w Scout Hut, Lower High Street.

The remainder should be deleted.

In addition, the third sentence of paragraph 10.3 should be deleted and replaced by: "A number of additional facilities were put forward as being important. However, many of these have protection through other policies. Therefore, the following are taken forward, and are mapped in Figures 10.1-10.3". As a result, paragraph 10.4 is unnecessary and should be deleted.

Conclusions

91. WPC, with the Steering Group, are to be congratulated on the production of such a well-researched, well-evidenced and clearly laid out and written NP. I have found a number of instances where modifications are required to ensure that the NP complies with the basic conditions.
92. I **Recommend** that, subject to those modifications being made, the NP should proceed to referendum.
93. I find no reason to recommend that the area covered by the referendum should differ from the neighbourhood area.

94. I regard it as within the implied powers of WDC/WPC to make truly minor corrections/alterations which do not affect the substance of the NP.

Christopher Lockhart-Mummery KC

Examiner

18 January 2024