
Report to Lewes District Council

by Mike Fox BA (Hons), Dip TP, MRTPI
an Inspector appointed by the Secretary of State

Date: 20 December 2019

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies

The Plan was submitted for examination on 21 December 2018

The examination hearings were held between 2 April and 12 April 2019

File Ref: PINS/P1425/429/14

Abbreviations used in this report

AA	Appropriate Assessment
AH	Affordable Housing
AMR	Authority Monitoring Report
CAJ	Court of Appeal Judgment
CJEU	European Court Judgment
dpa	dwellings per annum
DTC	Duty to Co-operate
EA	Environment Agency
EIA	Environmental Impact Analysis
ESCC	East Sussex County Council
GTAA	Gypsy and Traveller Accommodation Assessment
ha	Hectare (s)
HRA	Habitats Regulations Assessment
IDP	Infrastructure Delivery Plan
IR	Inspector's Report
km	kilometre
LEP	Local Enterprise Partnership
LPP1	Lewes District Local Plan Part 1: Joint Core Strategy 2010-2030
LPP2	Lewes District Local Plan Part 2: Site Allocations and Development Management Policies
m	metre
MHCLG	Ministry of Housing, Communities and Local Government
MM	Main Modification
NE	Natural England
<i>The Framework</i>	National Planning Policy Framework (2012 version)
NP	Neighbourhood Plan
OAN	Objectively assessed housing need
PAR	Port Access Road (at Newhaven)
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SANG	Suitable Alternative Natural Greenspace
SCG	Statement of Common Ground
SDNP	South Downs National Park
SEA	Strategic Environmental Assessment
SHLAA	Strategic Housing Land Availability Assessment
sm	square metre
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest

Non-Technical Summary

This report concludes that the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies, provides an appropriate basis for the planning of that part of the District that falls within the plan area, provided that a number of main modifications [MMs] are made to it. Lewes District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed main modifications. The MMs were subject to public consultation over a six-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The main modifications can be summarised as follows:

Summary of Main Modifications
Clarify references to Habitats Regulation Assessment in relation to the Ashdown Forest SPA/SAC.
Clarify parameters of policy NH02 for residential development at the Marina, Newhaven , with regard to remediation of ground contamination, wastewater management and biodiversity.
Clarify parameters of policy CH02 for residential development at Layden Hall, East Grinstead Road , with regard to pedestrian access.
Clarify parameters of policy GT01 for the development of 5 net additional permanent gypsy and traveller pitches at Land South of the Plough, Plumpton , with regard to site levelling, sewerage connection and pedestrian access.
Clarify parameters of policy E1 for port related and employment development of Land at East Quay, Newhaven Port , with regard to biodiversity, landscape character, public footpaths and heritage assets.
Clarify parameters of policy E2 for office, health and educational uses on land adjacent to American Express Community Stadium, Village Way, Falmar , with regard to the setting of the South Downs National Park, sustainable transport and ancillary uses.
Clarify the need to require appropriate surface water drainage mitigation and flood risk assessments in relation to several specific development allocations.
Clarify the parameters of policy DM24 for the protection of biodiversity and geodiversity , with particular reference to SSSIs, Marine Conservation Zones and potential loss or deterioration of irreplaceable habitats.
Include the Council's housing trajectory within the Plan.

Introduction

1. This report contains my assessment of the Lewes District Local Plan Part 2 in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (paragraph 182) makes it clear that in order to be

sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.

2. The revised National Planning Policy Framework (*The Framework*) was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Lewes District Local Plan Part 2: Site Allocations and Development Management Policies, submitted in December 2018, is the basis for my examination. It is the same document as was published for consultation in September 2018.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearing sessions, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them¹. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and in this regard, I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken. Where necessary, I have highlighted these amendments in the report.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the Proposed Changes Map that would result from the proposals in the submitted local plan.

¹ Lewes District Council: Lewes District Local Plan Part 2: Site Allocations and Development Management Policies – Proposed Main Modifications: Addendum to the Sustainability Appraisal; June 2019 [Examination Document CD088].

In this case, the only change to the submission policies map comprises a revised Plan for policy E1, entitled 'Site area as proposed to be modified'.

7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, one of the published MMs to the Plan's policies requires further corresponding changes to be made to the policies map.
8. These further changes to the policies map were published for consultation alongside the MMs².
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Examination Document CD087 and the further changes published alongside the MMs, incorporating any necessary amendments identified in this report.

Scope of the Plan

10. The Lewes District Local Plan: Part 2 – Site Allocations and Development Management Policies, which I refer to as the Plan, is Part 2 of the Lewes District Local Plan. It covers the whole of the District of Lewes outside the South Downs National Park and is referred to as LPP2. The scope of the Plan is to enable the effective delivery of Part 1 of the Plan³, in particular allocations to meet the housing and employment growth requirements, whilst protecting and enhancing the quality of the environment in the District and in neighbouring areas, as set out in Part 1 (which I refer to in my report as LPP1). Anything outside its scope, such as the strategic provisions of LPP1, is therefore not a matter for this Plan to address.
11. Any challenge to the strategic provisions of LPP1 will need to be made when that document is reviewed, and not through Part 2 of the Plan (i.e. this Plan). This is also supported in my view by a Court of Appeal Judgment (CAJ)⁴, which states that, in preparing a development plan, the local authority must have regard to any other development plan document already in existence which covers the relevant local plan area.
12. *The Framework* does not require a development plan document which is dealing with the allocation of sites and development management policies for an amount of housing provision which has already been found sound in LPP1, to address the question of whether further housing provision will need to be made.
13. As this is a subsidiary plan, there is no requirement for me to re-examine the strategic issues which were covered in LPP1, where they were found to be sound. No successful challenges were made to LPP1, in as far as they refer directly to this Plan⁵ within the prescribed period, and it is therefore

² Examination Document CD087.

³ Lewes District Local Plan -Part 1: Joint Core Strategy 2010-2030; adopted in May 2016 by Lewes District Council [Examination Document CD031].

⁴ Court of Appeal Judgment (CAJ): Oxted Residential Ltd v Tandridge District Council; 29 April (Ref 2016 EWCA Civ 414).

⁵ See paragraph 28 below.

unnecessary for me to go down the route of re-examining the strategic basis of the Plan.

Assessment of Duty to Co-operate

14. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
15. The Plan is largely non-strategic in nature. Therefore, in the main, the Council is not required through its strategic policy-making duties to co-operate further with the specific Duty to Co-operate (DTC) bodies, having already done so for the strategic LPP1. Nevertheless, local planning authorities are bound by the statutory duty to co-operate, where strategic issues have arisen since the adoption of LPP1. The Council has documented these issues in its DTC evidence⁶, including the disaggregation of the spatial strategy for housing growth between Lewes District inside and outside the South Downs National Park (SDNP); and its addressing of the 'in combination' air quality impacts of the spatial strategy for housing growth.
16. The Council has demonstrated that it has continued to engage in cross-boundary working in relation to these strategic areas. Regarding the potential impacts on the Ashdown Forest Special Area of Conservation (SAC) and Special Protection Area (SPA), the Council has contributed to the working of the Ashdown Forest Working Group, most of the members of whom have supported the Plan, as evidenced in the Ashdown Forest Statement of Common Ground (SCG)⁷. Furthermore, the lone dissenting member of this group did not make any representations to the Plan at the Regulation 19 stage.
17. The Council's interim legal agreement covering mitigation arrangements for recreational impacts on the Ashdown Forest SPA is to be replaced by a legal agreement, to include at least four neighbouring local authorities and other relevant organisations. The Council has also liaised with, and reached agreement with, Natural England (NE) over facilitating mitigation for development within another local planning authority area within 7 km of the Ashdown Forest that cannot provide its own suitable alternative natural greenspace (SANG).
18. I am satisfied that where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Soundness

Main Issues

19. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified six main issues upon which the soundness of this Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by

⁶ Council's Duty to Cooperate Statement [Examination Document CD/007].

⁷ Ashdown Forest Statement of Common Ground [Examination Document CD/008].

representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Is the Plan effective in delivering Part 1 of the Plan⁸ and national policy?

Key strategic parameters for Lewes

20. LPP1 sets out the key strategic parameters for the District of Lewes. These include the provision of 6,900 new homes over the plan period (2010-2030), which is substantially lower than the objectively assessed housing need (OAN) of the District. The LPP1 Inspector, in his report (IR)⁹, acknowledges (paragraph 25) that the full OAN over the plan period will not be met. This is primarily due to the existence of multiple constraints, including the fact that the growth of most of the larger settlements is constrained by their proximity to the sea, the limited capacity of the coastal road network and the extent of areas affected by flood risks, in addition to those parts of the District covered by landscape and nature conservation designations. The recently designated South Downs National Park (SDNP) has, if anything, added to the force of these constraints.

Sustainability Appraisal and Habitats Regulation Assessment

21. The evidence, which is well documented, and which was generally supported at the examination hearing sessions, shows that both the Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA) processes have been iterative and influential from the start of the plan-making process.
22. Alternatives for the housing site allocations in the Plan were informed by three key processes, namely the Strategic Housing Land Availability Assessment (SHLAA); the sites proposed in the Draft Plan; and the submissions received following the Council's call for sites. I am satisfied that all the realistic options were subjected to assessment against the SA framework. In addition, specialist input from East Sussex County Council (ESCC) in relation to landscape, flood risk, gypsy and traveller accommodation and highways, informed the choice of allocations in the Plan. Furthermore, the alternatives were reviewed by the Environment Agency (EA), NE and Heritage England, and these reviews are set out in some detail.
23. Clearly, the scoring of sites for development is a subjective process and it is inevitable that not all parties are going to afford specific sites the same scores in relation to a wide range of criteria, including the 18 SA objectives. I am satisfied, however, that the scores given in the SA for the allocations in the Plan, and for rejecting other realistic development options are not unreasonable and are not flawed, and do not bring into question the soundness of the SA approach as employed by the Council. I consider that this overall conclusion also relates to the assessment for policy E1, for the allocation for employment uses associated with the Port of Newhaven, which came under particular scrutiny during the Examination.

⁸ Lewes District Local Plan -Part 1: Joint Core Strategy 2010-2030 [Examination Document CD031].

⁹ Examination Document CD072.

24. The evidence before me shows that there are no significant adverse effects identified in either the SA or HRA in relation to wildlife/biodiversity, either within the plan area or within potential areas of impact outside the plan area, that require significant mitigation. In relation to potential impact on Ashdown Forest, which lies outside the plan area, **MMs 1 & 2** set out the necessary clarity in relation to the requirements for Appropriate Assessment (AA) relating to residential development within 7 km of the Forest.
25. These measures which are in place, also take into account the work that has been carried out through the HRA and assessments of air quality and recreational impacts, work which is largely supported by the Ashdown Forest Working Group and which has the support of NE. On this basis, it is possible to conclude that the development proposals and development management policies in the Plan will have no adverse effect on Ashdown Forest SAC and that the Plan is positively prepared and in line with national policy.
26. The Plan also takes into account the relevant aspects of the Sweetman 2 (CJEU) European Court Judgment and that it has been robustly tested both in relation to the SA and HRA.

Issue 1 - Conclusion

27. From the evidence before me, I conclude in relation to Issue 1, that, subject to the above modifications, the Plan is effective in delivering the adopted strategy of LPP1. I also conclude that it has been robustly tested both in relation to the SA and HRA.

Issue 2 – Does the Plan provide the quantum, type, deliverability and distribution of housing provision, including gypsy and traveller accommodation, set out in Part 1 of the Plan to meet the needs of the Plan area over the plan period in accordance with national policy?

Quantum of housing provision and deliverability

28. Part 1 of the Lewes District Local Plan (LPP1) makes provision for a total of 6,926 new homes within the period 2010 to 2030. The SDNP was designated in April 2011, as England's newest National Park. Following a legal challenge in March 2017, spatial policies 1 and 2 of the LPP1, which covered the overall provision of housing and employment land, and the distribution of housing, were quashed in so far as they related to the SDNP¹⁰. However, the judgment stated that the housing requirement and distribution could effectively be disaggregated between those areas falling within the SDNP and the remainder of the area, i.e. this Plan. The disaggregation between the two local planning authorities is agreed in a Statement of Common Ground (SCG) signed by the SDNP Authority and the Council.¹¹
29. The disaggregation between this Plan and the area of Lewes District within the SDNP results in the 6,926 new homes provided for in LPP1 being divided into 1,432 new homes to be provided within the SDNP and the remaining 5,494 to

¹⁰ Examination Document CD075 (see paragraphs 123 and 125).

¹¹ Examination Document CD007.

be provided within this Plan. This calculation was primarily based, as Examination Document CD007 explains, on LPP1 spatial policy 2 (Distribution of Housing).

30. Against this total, it is necessary to deduct the numbers of housing units which have already been built, and which are committed through planning permissions (some of which are under construction), plus the likely supply from windfalls and from rural exception sites. When these are deducted from the LPP1 housing requirement of 5,494 for this Plan, the residual housing requirement for this Plan falls to 1,660 units. One of my principal tasks in the examination of this Plan is to form a judgment as to whether this figure is realistic, and therefore whether the Plan is effective in its ability to deliver LPP1 so far as it relates to the plan area.
31. The constraints to new development (especially housing) which were identified in LPP1 have not materially changed since the adoption of that Plan, and based on my conclusions in Matter 1, it is not the role of this Part 2 Plan to reassess the objectively assessed housing need (OAN) of the plan area, or whether its overall housing provision should continue to be limited by these constraints. Clearly, these are matters for the forthcoming Review of the entire Plan (i.e. LPP1 and LPP2), which the Council is committed to as a matter of urgency.
32. The Plan provides for a modest over-provision of residual housing in relation to the LPP1 requirement for the plan area. Firstly, Table 3 of the Plan indicates that the planned level of housing is 1,682 units, based on adopted and emerging Neighbourhood Plan (NP) housing figures and the allocated housing sites within the Plan. However, it is clear from the most up-to-date estimates of housing delivery from the allocated housing sites in the Plan that the identified delivery exceeds the Plan figure by 95 dwellings, with a further excess of 99 dwellings being the estimated delivery of sites, mainly within NP allocations¹². Adding these two totals to the figure in Table 3 of the Plan indicates that the likely housing delivery, estimated at 1,876, will exceed the Plan total of 1,660 units by 216 units, or 13.01%. Whilst this remains a modest buffer, it does not raise soundness concerns.
33. Regarding the reliance on NPs delivering 1,250 dwellings towards the Plan's housing requirement, the Plan has identified a yield of 395 dwellings from the four 'made' NPs, whilst the updated total of housing allocations from these NPs is identified at 385 dwellings. However, the Plan allocates a site at Ringmer for 32 dwellings, which increases the yield in these four NPs to 417 dwellings. I have no evidence to point to the likelihood of an overall failure of the NPs in the District to meet the target of 1,250 dwellings over the rest of the plan period. Although it would appear that progress on the Peacehaven NP has stalled, the evidence before the examination pointed to most of the NPs exceeding their initial housing contributions following the submission of planning applications and other work, resulting in an overall surplus of housing provision above the requirements in this Plan.

¹² Table 1 in the Council's Matter 3 Statement [Examination Document LDC/005].

34. Several of the housing allocations in the Plan have deliverability issues. However, **MMs 3-17** and **28** include the necessary changes to ensure the effectiveness of the relevant policies covering the following aspects:
- Addressing flood risk and securing surface water drainage (policy NH01, land south of Valley Road, Newhaven; policy BH01, land at the Nuggets, Valebridge Road; policy RG01, Caburn Field) [**MM3, 4, 10 & 11, 14 & 15**];
 - Provision of sewerage connections and site levelling (policy GT01, Land South of The Plough) [**MM16 & 17**];
 - Remediation of contamination, on-site sewerage provision and addressing biodiversity impact (policy NH02, land at the Marina, Newhaven) [**MM5-9**];
 - Securing safe pedestrian access to the nearest bus stop (policy CH02, Layden Hall, East Grinstead Road) [**MM13**] (and policy GT01, Land South of The Plough) [**MM28**];
 - Provision of landscaped buffers (policy BH01, land at the Nuggets, Valebridge Road) [**MM12**].
35. The Council issued a further note covering the deliverability of the largest housing allocations (including one spatial policy site from LPP1), taking account of the above considerations but also addressing other issues such as Section 106 progress, viability, especially in relation to affordable housing (AH) and, where applicable, environmental impact analysis (EIA) work¹³. This detailed work demonstrates that the six key sites identified in the note can be delivered within the plan period, and that all the identified constraints can be overcome to enable scheme completion within this time.
36. Moreover, the revised capacities of these sites, in part based on recent planning permissions and on more detailed site work, has increased, in some cases significantly¹⁴. These six sites, totalling 1,200 units, are: Reprodex House, Newhaven (80 dwellings); Land at Harbour Heights, Newhaven (696 dwellings, based on the planning application figure); Land South of Valley Road, Newhaven (24 dwellings); Land at the Marina, Newhaven (300 dwellings); Land adjacent to High Street, Barcombe Cross (10 dwellings); and Caburn Field, Ringmer (90 units using the policy RG01 figure).
37. The windfall numbers are out-performing the allowance made for them in LPP1 spatial policy 2, even taking account of the fact that the LPP1 figure includes windfalls arising within the SDNP. I see no reason to consider that the windfall allowance of 50 dpa should be decreased over the remainder of the plan period, especially as the figures for the last five years, excluding residential gardens, have averaged 58 dpa¹⁵. Moreover, the Council applies a 25%

¹³ Document LDC/022 – Response to Inspector's Questions ID6 and ID7; April 2019.

¹⁴ For example, land at Harbour Heights is allocated in Spatial Policy 7 for approx. 400 dwellings; this has been increased to 696 houses and apartments, based on the detailed work set out in Document LDC/022, Appendix 1- Deliverability of large 6 sites.

¹⁵ Council's Matter 3 Statement, paragraph 3.29 [Document LDC/005].

discount to small sites to allow for non-implementation (whilst the allowance for non-implementation for large sites is considered on a site-by-site basis).

38. The inclusion of a housing trajectory in the Plan, divided into individual years, and categories (market housing, affordable housing (AH), windfalls, approvals subject to Section 106 and completions) **[MM27]** forms a key element in ensuring that the Plan is positively prepared and effective.

Distribution of housing

39. The distribution of the residual housing provision of this Plan accords with the SA; it also accords with the strategic principles set out in LPP1 and with the principles of sustainable development. Inevitably, some of the distribution has gone to villages, which I accept are generally less sustainable than the towns. Whilst some of this growth in villages will meet local needs, and where there are in many cases a number of facilities and services, it is not possible within the current planning system to differentiate between housing for commuters and housing to meet local needs.
40. In relation to the provision of the 200 dwellings 'to be determined' in Table 3, these are largely met through the planning permission recently granted for 183 dwellings at the former Newlands School at Seaford, with the remaining 17 dwellings to be located at Newhaven. These are both sustainable settlements and no soundness issues arise.
41. Whilst I agree with the view expressed by several representors that the town of Lewes is located sustainably in relation to the District of Lewes, the fact that it is located outside the plan area and within the SDNP means that it is also outside the remit of my examination of this Plan.
42. The provision of 14 net additional dwellings at the Nuggets, Valebridge Road in policy BH01, results in a net addition of 95 dwellings sustainably located on the fringe of Burgess Hill, to the north of the plan area, in accordance with LPP1. It is acknowledged by the Council that the occupiers of these properties are highly likely to rely primarily on the health facilities, schools and other community services located outside the District. This, however, does not override my conclusion that these developments are sustainably located and that their location accords with the spatial strategy set out in LPP1.

Can the Plan deliver a five-year supply of housing?

43. National planning policy requires each local planning authority to maintain a five-year supply of deliverable housing sites. Paragraph 49 of *the Framework*¹⁶ states that the relevant policies (in a Local Plan) shall not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
44. The Council's latest published position¹⁷ shows that at 1 October 2018, the Council was able to demonstrate it had 5.22 years' housing land supply. This document bases its calculations on the LPP1 figure with a five-year target

¹⁶ Department of Communities and Local Government: National Planning Policy Framework (*the Framework*); March 2012.

¹⁷ Lewes DC Five Year Housing Land Supply Position as at 1 October 2018 [Examination Document CD/061].

figure of 5,494 and a 5% buffer. The MHCLG letter dated 22 October 2019¹⁸ confirms that the Housing Delivery Test measurement for 2018 is 86%, which confirms that the Council's housing delivery is in line with paragraph 73 of *the Framework*. A 5% buffer is therefore appropriate at this point.

45. The shortfall has been met by the use of the 'Liverpool' method (which annualises the requirement over the full extent of the remaining plan period, i.e. utilising a backloaded trajectory), as opposed to the 'Sedgefield' method (which requires the total shortfall to be made good within 5 years). The arguments for opting for the 'Liverpool' method are made in the LPP1 Inspector's Report (IR), which argues that that: "*there is sufficient local justification for the Councils to meet the shortfall of this area over the full plan period*"¹⁹.
46. I see no reason, based on the evidence before me, which includes the need for major works on a number of the main site allocations, to overcome issues such as remediation from contamination and flood defence work, to disagree with the view in the IR in relation to this Plan. Therefore, on the basis of employing the 'Liverpool' method, I am satisfied that the Council can demonstrate that there is a reasonable prospect of the Plan achieving a five-year housing land supply for the plan area, assuming a 5% buffer.

Qualitative aspects of housing supply – is there a need for any qualitative parameters for housing provision in the Plan, such as provision for affordable housing (AH), self-build, older persons' accommodation, care homes, accessible housing and student accommodation?

47. The Council is committed to addressing qualitative aspects of housing supply in its review of the Plan. The Council is promoting self-build through a register and is already looking at its own sites, and a 20-dwelling plot for self-build housing has been identified as part of the Harbour Heights strategic allocation at Newhaven.
48. The Council's affordable housing (AH) provision, including the threshold total and mixture of AH types, is set out in core policy 1 of LPP1, and I have no reason to come to a different conclusion. Policy DM2 in the Plan addresses AH provision on 'exception' sites, especially where the social mix and vitality of villages is being undermined by a shortage of AH; this policy also recognises the intrinsic beauty of the rural landscape and the need to avoid isolated homes in the countryside, and to ensure any new development responds to local character. I therefore consider the policy is justified and effective, and in line with national policy.
49. Whilst sympathetic to representations on this, it is not appropriate to add a requirement to the policy that schemes should be supported by the local community, as this would not accord with paragraph 154 of *the Framework* which requires that only policies that provide a clear indication of how a

¹⁸ Letter from MHCLC, dated 22 October 2019, following High Court proceedings by Lewes DC in relation to publication of MHCLC's annual housing delivery test results in February 2019, which indicated that the Council had only delivered 50% of the housing required under its adopted local plan over the last three years.

¹⁹ Paragraph 40 of the Report on the Examination into the Lewes District Local Plan – Part 1 – Joint Core Strategy (22 March 2016) [Examination Document CD072].

decision maker should react to a development proposal should be included in the Plan.

50. I am mindful of the representations in favour of policies for older persons' housing, and the lack of them in LPP1 and in this Plan. However, it is clear that the Council would need additional time to formulate a meaningful policy, based on robust evidence, as opposed to general wording. In which case, I consider that it would be more appropriate to include a policy addressing the need for older persons' housing in the forthcoming Local Plan Review.

Gypsy and traveller accommodation – Is policy GT01, which allocates a site for the provision of 5 net additional permanent gypsy and traveller pitches on land to the south of The Plough, to the north of Plumpton Green village, positively prepared, justified, effective and in accordance with national planning policy and LPP1?

51. National planning policy²⁰ aims to ensure fair and equal treatment for the gypsy and traveller community through understanding their accommodation needs whilst respecting the needs of the settled community. In accordance with national policy, the Council has demonstrated that it has sought to engage with the local community in the village of Plumpton Green from the earliest stages of developing policy GT01 as part of seeking to meet the needs of the gypsy and traveller community in the plan area. The Council has stated that it has sought to explore possible sources of potentially suitable sites as part of its local plan preparation process. This included holding a public meeting held within the village on 5 September 2018. I am satisfied that the Council's preparation for policy GT01 demonstrates positive preparation and is in accordance with national policy.
52. Moreover, the provision of a new site for gypsies and travellers will also address the issue of unauthorised gypsy and traveller encampments within the plan area. As part of its activities under its commitment to the DTC, the Council has sought to work with neighbouring local planning authorities in securing gypsy and traveller provision.
53. As I stated at the outset of my report, the scope of this Plan is to implement LPP1, which has been found to be sound in relation to national policy at the time of its adoption. The fact that national policy in relation to gypsy and traveller accommodation has subsequently changed its emphasis²¹ is not therefore a matter which I can have regard to in determining the soundness of this Plan. Within the ambit of national policy, LPP1 has had regard to the level of need identified in the 2016 East Sussex and South Downs National Park Authority Gypsy, Traveller and Travelling Showpeople Accommodation Assessment (GTAA).
54. LPP1 core policy 3 (Gypsy and Traveller Accommodation) identifies the number of permanent pitches required across the District for the period 2014-2030, as well as its distribution between the areas inside and outside the SDNP. The policy requires the provision of 5 pitches outside the SDNP, i.e. within this plan area; policy GT01 of this Plan reflects the LPP1 total in allocating a site for the

²⁰ Planning Policy for Traveller Sites (PPTS), Department for Communities and Local Government; August 2015.

²¹ In the PPTS, Annex 1, the definitions of 'gypsies and travellers' and 'travelling show people' have been amended. Previously included within the definition were those who had ceased to travel temporarily or permanently for reasons of health, education or old age. "Permanently" has been deleted from the definitions.

development of 5 net additional permanent gypsy and traveller pitches on a 0.69 ha site on land south of The Plough, to the north of Plumpton Green Village.

55. Core policy 3 also sets out six criteria to guide the allocation of gypsy and traveller sites, stating that in considering planning applications for sites for gypsies and travellers (and travelling showpeople), proposals will be supported where the six criteria, which are set out in the policy, have been met and where the proposal is in conformity with other relevant district-wide policies. These criteria, which are reflected in policy GT01, were discussed in some detail at the hearing sessions, and it is necessary to examine each one in turn.
56. *Criterion 1 - Avoid locating sites in areas of high flood risk, or significantly contaminated land, or adjacent to existing uses incompatible with residential uses, such as waste tips and wastewater facilities:* The proposed site is located within Flood Zone 1, so that no sequential test is needed. There has been no objection to policy GT01 from the Environment Agency (EA). Moreover, no robust arguments were made either at the hearing sessions or in subsequent representations to the main modifications, that the site is unsuitable for pitches for gypsies and travellers on the basis of either flood risk or proximity to environmentally incompatible uses. I have no evidence to come to a different conclusion.
57. A modification to policy GT01, to ensure that the development will provide a connection to the sewerage system, as advised by Southern Water **[MM17]** is necessary to ensure that the policy is positively prepared and effective. Also, a further modification to ensure that the policy is clear in referring to the site which should be levelled rather than the development **[MM16]**, is necessary to secure the effectiveness of the Plan.
58. *Criterion 2 – The site is well related to or has reasonable access to, settlements with existing services and facilities such as schools, health services and shops:* The proposed site is located just to the north of the village of Plumpton Green, to which it is connected by Station Road, which forms the spinal route of the village, and which is designed to enable traffic generally to flow freely in both directions. The site lies immediately to the north of an industrial site, which is known as The Old Brickworks, and it is also located close to a number of scattered dwellings and a public house (The Plough).
59. Although it is located outside the planning boundary of the village and comprises part of a field, the site is not isolated or remote, and is not located in a peripheral hamlet. The site is accessible to a range of services which are within the village.
60. The evidence that I heard at the hearing sessions and read in submissions and observed at the site and in the area, is that site GT01 is located within 1.5 to 1.9 kilometres (km) from the facilities within the village. There is a bus stop 150 m to the north of the proposed access to the site; and I heard no robust evidence that the regular bus service is likely to cease operating any time soon. There is a doctors' surgery within a 2.5 km range, which is not an unreasonable distance away. The nearest primary school is about 2.25 km away, and the nearest secondary school is about 4 km distant. These

distances do not equate to the site being in unsustainable rural isolation. Moreover, policy GT01(a) makes provision for pedestrians and cyclists along the main road.

61. On the basis of the above evidence, I consider that site GT01 is close to the village of Plumpton Green, and is well related to, and has reasonable access to, settlements with existing services and facilities. This view is also agreed by the ESCC Gypsy and Traveller Team Manager, who considers that the allocation meets the relevant criteria for ensuring a satisfactory site for gypsy and traveller pitches.
62. *Criterion 3 – The proposal does not compromise the special features of national historical, environmental or landscape designations, such as the SDNP:* The site is located to the north of Plumpton Green, whereas the SDNP is located to the south of the village. Any view of the proposed development on site GT01 from the SDNP would only be seen within the context of the entire village and would therefore not be viewed as a pristine area of undeveloped countryside. As such, it would not adversely affect the setting of the SDNP. In addition, policy GT01 requires the proposed development to use the natural topography in screening the site from the wider, sensitive landscape views and to be designed to minimise the perception of urbanisation in this location.
63. *Criterion 4 – There is safe and convenient access to the road network:* There is already a vehicular access to site GT01, which the highway authority deems acceptable in terms of safety and convenience. Policy GT01(b) also requires that the development should be laid out to provide sufficient room for vehicles to turn around within the site, and therefore to be able to access and egress the site in forward gear. Regarding safety concerns, no accident data was submitted by any party.
64. Although there is presently no roadside footpath alongside the site, the Council indicated at the hearing sessions that a dedicated footpath connecting the site to the nearest bus stop would be necessary in the interests of pedestrian safety, and I have added this to the list of modifications **[MM28]**. This is necessary to ensure that the site is linked satisfactorily to the facilities within the village and in the interests of pedestrian safety and ensures that the Plan is positively prepared. On the basis of the above considerations, subject to the recommended added modification, it is my view that the site affords safe and convenient access to the road network.
65. *Criterion 5 – There is capacity to provide on-site physical and social infrastructure such as water, power, drainage, parking and amenity space:* There are no additional infrastructure issues which would curtail the development of the site for gypsy and traveller accommodation, and this is therefore not a reason for policy GT01 to be deleted.
66. *Criterion 6 – Adequate levels of privacy for residents on or adjacent to the site are provided through planning considerations such as site layout, scale and landscaping:* The nearest residential neighbours occupy plots on the opposite side of Station Road to site GT01, and the separation distances between the habitable windows of these properties and the proposed development are

sufficient to ensure that there would be no potential for significant detriment to neighbouring living conditions, such as overlooking, loss of privacy, or other forms of disturbance. In addition, the requirement in policy GT01(c) for the proposal to be designed to minimise the perception of urbanisation in this location would also minimise any impacts on neighbouring living conditions.

67. At the suggestion of the Council, I visited the permanent gypsy and traveller site at Offham, just to the north of the town of Lewes. I observed how successfully the site has been assimilated into its surroundings, and I am not persuaded that a similar, sensitive scheme could not be implemented at site GT01.
68. Several other issues were raised by the parties and I address these below. Firstly, *in relation to Plumpton Neighbourhood Plan (NP)*; there is no allocation for a gypsy and traveller site within the Plumpton NP, neither is there a policy which sets out any criteria for determining such a site. The NP is therefore silent on the issue.
69. Furthermore, at the time of the examination, no other emerging or 'made' NPs within the plan area have sought to deliver a site for permanent gypsy and traveller pitches. Given the complete NP policy silence throughout the plan area and the fact that there is both a national policy and LPP1 requirement to meet an identified need for gypsy and traveller pitches within the plan area, the Council undertook to allocate a site for this need within the Plan. I consider that this was the appropriate response for the Council to take in order to secure the soundness of the Plan, and to have avoided the issue would have been contrary to national and LPP1 policy.
70. Secondly, *regarding the selection process in relation to the GT01 site*, I was informed at the hearing sessions that several alternative sites were considered over a period of time, but during the preparation of LPP1, none of these sites was found to be suitable. LPP1 therefore delegated the task of allocating a gypsy and traveller site to LPP2. Initially, site GT01 was considered as part of a larger site, which was appraised and rejected. It is clear that site GT01 is just part of the larger site referred to above, with the nature of the access requirements amounting to a significant difference between the earlier site and site GT01 (involving matters such as the extent of hedge loss, steepness of gradient, the need to acquire third party land and flood risk).
71. The plan period for both LPP1 and LPP2 is 2010-2030, and policy GT01 is considered to be implementable well within this period, and I have no reason to disagree with this view. Although ideally, several realistic, alternative sites should be considered, as the Strategic Environmental Assessment (SEA) points out, it is not reasonable to consider the alternative of 'no site'. 'Doing nothing' is therefore not a legitimate option in terms of satisfying national policy.
72. The evidence, however, points to a thorough exercise being undertaken by the Council in the preparation of the Plan, which included close collaboration with the Council's housing officers, included a review of the Council's land holdings, followed by a further SEA and then a further assessment of sites from ESCC. There are therefore no soundness issues raised by the process whereby the GT01 site was introduced into the Plan.

73. Thirdly, *in relation to the impact of gypsy and traveller accommodation on the viability of local businesses*; I heard no robust (as opposed to hear say) evidence that the proposal was likely to lead to the loss of viability of either The Plough Public House or the Old Brickworks industrial site.
74. Finally, *in relation to precedent*: there is no evidence to demonstrate that the allocation of site GT01 would set a precedent for either additional gypsy and traveller pitches, in Plumpton Green or elsewhere, or that the policy would lead to additional urban growth in and around the village. Additional allocations for gypsy and traveller accommodation or housing for the settled community or any other form of development would need to be formulated through the local plan or NP process, in the same way that policy GT01 is being formulated, and the process would require public scrutiny and the exercise of an examination in the public realm. Any windfall applications would also be considered in the context of the existing development plan (LPP1, LPP2 and NPs) and national policy.
75. From the evidence before me, policy GT01 is in line with national policy as it existed at the time LPP1 was adopted. It is entirely in line with core policy 3. None of the additional arguments against the policy made in statements to the examination and which were discussed at the hearing sessions or in response to the suggested modifications, have persuaded me, either individually or cumulatively, to delete the policy, which I consider, subject to the above modifications, to be positively prepared, justified, effective, and in accordance with both national policy and LPP1.

Issue 2 - Conclusion

76. From the evidence before me, I conclude in relation to Issue 2, that subject to the above modifications, the Plan is positively prepared, justified and effective in delivering LPP1 over the plan period and accords with national policy.

Issue 3 – Are the Plan’s provisions for the protection and enhancement of the environmental, landscape, biodiversity, open space, recreational and leisure and heritage assets positively prepared, justified, effective and in accordance with national policy?

77. The Plan contains a suite of policies which address a range of environmental issues, which are generally in accordance with national policy.
78. Natural England (NE) suggested an amendment to policy DM24 (protection of biodiversity and geodiversity). This refers to impacts either individually or collectively, and to add a new section to protect the loss or deterioration of irreplaceable habitats, such as ancient woodland or veteran trees in all but wholly exceptional circumstances, where a suitable compensation strategy exists [**MM25&26**]. These changes are justified and ensure the policy accords fully with national policy.

Issue 3 - Conclusion

79. From the evidence before me, I conclude in relation to Issue 3, that subject to the above modification, the Plan is positively prepared, justified, effective and accords with national policy.

Issue 4 – Are the policies to manage and promote the local economy and employment areas positively prepared, justified and effective and in line with national policy and LPP1?

Overall provision of employment land in the Plan Area

80. LPP1, based on evidence provided in the Council's Employment Background Paper²², sets out an employment land requirement of 74,000 sq metres (sm) for the District. The outstanding supply figure is now reduced to 32,000 sm following the granting of planning permissions, some of which have been completed.
81. The Background Paper shows that the employment land allocations at Cradle Hill, Seaford (now a NP allocation); Harbour Heights, Newhaven (allocated in LPP1); land at East Quay, Newhaven (allocated by policy E1 in this Plan); and land adjacent to the AMEX Community Stadium, Falmar (allocated by policy E2 in this Plan), amount to 43,000 sm, which together with completions and extant permissions total 85,000 sm, i.e. in excess of the 74,000 sm provision in LPP1. This amount of headroom will increase the choice and range of sites for employment development, adding flexibility to the Plan. The Plan therefore conforms to the LPP1 overall strategy and provides a framework to meet current employment needs within the District.

Expansion of the Port of Newhaven

82. Policy E1 allocates employment uses associated with Newhaven Port and its expansion, at East Quay. This comprises an open area to the east of the existing port, extending almost as far south as the foreshore of the English Channel. It is contained by an enclosed tidal channel known as Tide Mill Creek, to the north. The written representations and discussion at the hearing sessions point to the following principal criteria which I address below.

Criterion 1 – The need for land for the expansion of the Port of Newhaven and for port-related employment land

83. LPP1 recognises the Port of Newhaven as an important strategic asset, both for the District and also for the wider region²³. Policy E1 is in line with LPP1 core policy 4 (7), which supports the continued use of Newhaven Port for freight and passengers, including plans for the modernisation of the port as identified in the Port Authority's Port Masterplan²⁴. This accords with the Government's aim of building a strong, competitive economy, as set out in paragraphs 18 to 21 of *the Framework*.
84. Although several representors questioned the need for any expansion of the port or for additional employment land at Newhaven, no robust evidence was

²² Examination Document CD051.

²³ LPP1, paragraph 7.48.

²⁴ Newhaven Port Masterplan 2012 [Examination Document CD047].

put forward which demonstrated that the justification for core policy 4 (7), as reflected in policy E1 had now disappeared or had in some way diminished.

85. The LPP1 Inspector's Report (IR) is clear that port expansion at Newhaven is justified and that it is in line with national planning policy. The IR also states: "*Given the obvious constraints that severely limit the realistic potential for peripheral expansion of the district's towns, it is appropriate and reasonable in this area to seek to safeguard existing employment sites from other competing uses, in principle at least.*"²⁵ Core policy 4 (7) supports the continued use of Newhaven Port for freight and passengers, including plans for the expansion and modernisation of the port, as identified in the Port Authority's Master Plan.
86. The Port Authority's Masterplan makes the business case for the expansion of the Port of Newhaven. It identifies the land that is needed for the expansion of the port, for both freight and passenger use. The port's land requirement includes the allocation identified in policy E1. The Masterplan also sets out in detail the arguments for the expansion of the port and the proposals for specific parts of the land covered by policy E1, which it maintains are the principal focus of the port's expansion proposals, including the provision of a new berth at East Quay and relocation of the existing ferry terminal in order that the port can accommodate modern ferries; the Port Authority certainly does not shed doubt on the continuation of the ferry services currently operating from the port, and I see no reason to take a different view.
87. These arguments are also supported by the Local Enterprise Partnership (LEP), indicating to me that policy E1 is supported by the local business community. Furthermore, no robust case was made at the examination which demonstrated that the case for port expansion in economic terms was unjustified.
88. On the basis of the evidence before me and the discussions at the hearing sessions, I conclude on the first criterion, that the need for port expansion at Newhaven, including the need for employment land, as provided for in policy E1, is justified and that the policy is effective, and that it is in accordance with both LPP1 and national planning policy.

Criterion 2 - Whether any constraints to the development of the policy, such as the construction of the Port Access Road (PAR), have been overcome. Also, have flood risk issues been satisfactorily addressed, and how critical are other potential adverse factors, such as air and noise pollution, traffic congestion and impact on the marine environment?

89. The first stage of the Port Access Road (PAR)²⁶, which, as its name implies, aims to link the Port of Newhaven to the national highway network, extends as far south as the proposed roundabout, and has planning permission. It had been partially constructed as far as the projected railway bridge crossing at the time of my site visit. Work on the final phase commenced on 7 January 2019 and the ESCC scheme is programmed for completion by October 2020, at a cost of £23.2 million. This money is now available and allocated for the

²⁵ LPP1 Inspector's Report, paragraph 119 [Examination Document CD072].

²⁶ A map of the PAR, including the roundabout, can be seen in Document Rep/486/001 [March 2019].

implementation of the PAR. Its completion date is now realistic and not just aspirational.

90. The Newhaven Flood Alleviation Scheme is scheduled for completion by autumn 2019 and will provide a 1 in 200-year standard of protection. Most of policy E1 is located within Flood Zone 1, whilst employment uses are likely to fall into the 'less vulnerable' flood risk classification. It is also, for logistical reasons, important that port-related operational and employment uses, are located in close proximity to the port, which I regard as a critical consideration. It would appear from the evidence submitted that the drainage and flooding constraints will be largely overcome once the flood alleviation scheme is in operation in the near future.
91. The entire area of undeveloped land has some environmental value, for example as part of the foreshore and the enclosed tidal channel, known as Tide Mill Creek, where large bird populations can and do thrive. Much of this area, however, comprises relatively low value shrubland and is bordered by even more extensive areas of suitable bird habitat.
92. Nevertheless, the environmental importance and sensitivity of the site and adjoining coastal strip have required several modifications to the Plan to be suggested. **MM20** provides for a north-south aligned buffer zone at the eastern end of the proposed port expansion in order to effectively protect the Tide Mills Nature Reserve immediately to the east of site E1. It therefore makes the Plan justified and effective. Several dimensions for the buffer zone were suggested by some parties, ranging from below 10 to about 80 m in width, but no robust evidence was put to me to support any specific dimension. The exact width, height and landscaped treatment of the buffer will be determined at the development management stage, based on appropriate evidence, with the entire land take for the buffer coming from within the policy E1 area.
93. Secondly, **MM19** provides for the deletion of the land originally within policy E1 to the south of the bunded footpath. This would protect an integral part of the vegetated shingle habitat which extends along the foreshore, including the site of the former World War Two Seaplane Base, which is an undesignated heritage asset, and is therefore necessary for the Plan to be justified and effective. A consequential change to the Policy Map is therefore necessary.
94. Thirdly, **MM18** strengthens the mitigation requirements, to ensure that the proposed development would be acceptable in environmental terms. This ensures, amongst other things, that mitigation should be delivered, and time allowed for its establishment before any development occurs, so that no net loss of biodiversity occurs at any time. Whilst the remit of this modification is limited to the area contained within site E1, the development proposals will be required to ensure that any impact on the existing public footpath which runs through the site will be mitigated in relation to convenience, safety and amenity of this right of way, in accordance with policy DM35.
95. These three modifications address the key biodiversity issues in and around the area covered by the submitted policy E1 which need to be effectively

considered to ensure that the policy is justified and accords with national policy.

96. The option of deleting additional scrubland to the east of the PAR from policy E1 would not in my view result in significant additional environmental or visual benefits, whilst it would artificially curtail the 'natural' expansion of the port eastwards. The impact of the PAR, some sections of which are elevated, will, of course, have a visual impact on the landscape to the east of the port. However, far from a pristine view of open countryside from the cliffs in the SDNP overlooking site E1, the views over Newhaven from the National Park look down onto the urban area of the town and the existing port operations with the backdrop of the English Channel. The relatively small-scale addition at the far end of the port represented by policy E1 would be dominated by the elevated sections of the PAR, with any cumulative impact from the implementation of policy E1 on the setting of the SDNP being minimal.
97. The PAR is likely to decrease traffic congestion on the residential roads which lead to the port, and there are likely to be benefits in a reduction of both noise and air pollution for residential areas which are currently adversely impacted by the disturbance arising from heavy goods vehicles entering and leaving the port and the port activities themselves. Moreover, the application of a number of policies, including DM20 (pollution management), DM23 (noise) and DM25 (design) will also safeguard the quality of the living conditions of neighbouring residential occupiers from the potential environmental effects of the implementation of policy E1.
98. On the basis of the written evidence and the discussions at the hearing sessions, I conclude on the second criterion, subject to the proposed modifications, that the potential constraints to the sustainable implementation of policy E1 can be mitigated to ensure that the policy is positively prepared, justified and effective, and that it is in accordance with both LPP1 and national policy.

Criterion 3 - The sustainable planning balance

99. In strategic planning terms, the sustainable planning balance was determined in favour of policy E1 in LPP1. It is my contention that the material planning considerations that led to the support for policy E1's predecessor in LPP1 (core policy 4(7)) have not significantly changed. No new soundness considerations have arisen to persuade me to delete policy E1. If anything, I consider the arguments in favour of the policy, including the realisation of the commitment to construct the PAR, are now even stronger than they were during the examination of LPP1.
100. The evidence which I have considered in the previous paragraphs still points conclusively to the need for the proposed employment and port-related development on site E1. Moreover, the potential constraints to the port-related development as set out in policy E1, the overcoming of which were if anything less certain at the time of the examination of LPP1, have already been overcome, are in the process of being overcome, or are satisfactorily addressed by other relevant policies in the Plan. Pedestrian access to all the remaining areas of the foreshore will be retained, and I heard no evidence to

demonstrate that the abundant and diverse bird population within and around site E1 would be significantly adversely affected.

101. There are clearly environmental considerations which have to be addressed in assessing the soundness of policy E1. However, it is clear to me that the suggested modifications, to ensure the protection of the Nature Reserve through a buffer, the deletion of the policy area to the south of the footpath so as to protect the vegetated shingle habitat, and the mitigation requirements prior to any development being started, enable the policy to be implemented in an environmentally sustainable way, and are therefore justified. For this reason I do not consider that the arguments to keep the site undeveloped, on the grounds of protecting its wildlife, recreation and leisure potential, its attraction for tourists and visitors and its potential harmful effect on the setting of SDNP (which I consider would be minimal) are sufficient to outweigh the arguments in favour of implementing policy E1.

Land adjacent to American Express Community Stadium, Village Way, Falmer

102. Policy E2, for office and health/educational uses associated with the Stadium or the Brighton Universities, is for development which would be clearly visible from the SDNP which overlooks the site. Development on this site clearly has the potential to contribute to the existing heavy congestion on the busy A27 main road which runs adjacent to the site, close to the Falmer junction.
103. Modifications to the policy, to require that the design and external materials should reflect the setting of the SDNP **[MM21]**, and to require sustainable transport infrastructure to ensure that the development does not have an adverse impact on the performance of the Falmer Interchange trunk road junction at the A27/B2123 Falmer Junction **[MM22]**. These are necessary for the policy to be sensitive to the setting of the SDNP and to secure sustainable transport access. An additional modification, to introduce flexibility so as to allow for ancillary uses associated with the Stadium and Brighton Universities **[MM23]**, is necessary for the Plan to be effective, whilst **MM24** introduces the necessary flexibility in the requirement for green infrastructure.

Other economic and employment aspects

104. The Plan also addresses several other aspects of the local economy and employment provision. This includes the protection of existing and allocated employment sites from development for other uses, such as housing, in accordance with national policy, and it addresses the need for a sustainable housing/employment balance in the interests of reducing commuting distances where possible. LPP1 also includes town centres policies, e.g. core policy 6, which satisfactorily address retail and town centre issues. Policy DM9, covering farm diversification, accords with national policy and LPP1 strategy. Finally, policy DM11 takes a proactive stance and accords with the strategic thrust of core policy 4 in taking a proactive approach to supporting the rural economy in line with both national policy and LPP1.

Issue 4 - Conclusion

105. From the evidence before me, I conclude in relation to Issue 4, that subject to the above modifications, the Plan is positively prepared, justified and effective and in line with national policy and LPP1.

Issue 5 – Are the transport, infrastructure, implementation and monitoring provisions positively prepared, justified, effective and in line with national policy?

106. There is recognition in the LPP1 IR that the capacity of the highways network, especially on the A27 and A259, the latter serving the main settlements along the coast, such as Newhaven, Peacehaven and Seaford, is a major contributor towards the fact that the OAN figures cannot be met in full²⁷.

107. Although the Infrastructure Delivery Plan (IDP)²⁸ is committed towards implementing small scale capacity improvements on the A27 to the east of Lewes, there is a realisation on the part of Highways England, ESCC and others that an emphasis on the construction of new highways is not an appropriate way forward in the plan area. This approach is justified by the high coverage of landscape, wildlife and coastal constraints.

108. The sustainable way forward identified by the leading infrastructure agencies is to investigate more comprehensive solutions to address peak hour congestion between Lewes and Polegate, using sustainable transport where possible. Although this stretch of highway falls within the SDNP, it will have important implications for traffic movement within the plan area. The only exception to this strategy is the PAR, which is a new road construction project focused on the specific delivery issues of the Port of Newhaven, which I have already addressed in Issue 4 above.

109. The IDP identifies the infrastructure required to meet the level and distribution of growth which is proposed in the Plan over the plan period. The Council, supported by ESCC as highway authority, considers that there is a reasonable prospect that the required highway and transport infrastructure improvements could be delivered in a timely fashion over the plan period.

110. Regarding flood risk, the only housing site allocation within Flood Zone 3 is the land at the Marina, Newhaven (policy NH02). However, a flood risk assessment has been carried out for this site, including a sequential test, by the Council. The EA has agreed that this assessment is sufficient to demonstrate the acceptability of this allocation within the Plan, subject to detailed sewerage and decontamination modifications which I have addressed under Issue 2 above.

111. In relation to the quantity and quality of water supply, the plan area, along with the rest of the South East, is in an area of 'serious water stress', as defined by the EA²⁹. With this situation in mind, LPP1 core policy 14 requires all new dwellings to achieve a water consumption rate of not more than 110

²⁷ IR, paragraph 25 [Examination Document CD072].

²⁸ Examination Document CD057.

²⁹ Council's Statement in response to Inspector's questions – Matter 7 paragraph 6.1 [Examination Document LDC/009].

litres per person per day. Policy DM22 builds on core policy 14 and seeks to ensure that new development will not put the quality of the water environment at risk. This policy is supported by EA, ESCC, NE and Sussex Wildlife Trust, and I consider it is justified and in accordance with national policy.

Issue 5 - Conclusion

112. From the evidence before me, I conclude in relation to Issue 5, that the Plan is positively prepared, justified and effective and is in line with national policy and LPP1.

Issue 6 – Are the Plan's provisions for settlement boundaries, development management, uncertainties and risks justified and effective?

113. Policy DM1, which sets out the proposed development boundaries, operates within the spatial context of LPP1 spatial policy 2, which identifies the scale and distribution of housing development across the District. The importance of gaps is recognised, to maintain the distinctive character and identity of individual settlements. The Council's response to my questions is to indicate that whilst the principle of retaining gaps between settlements is important and is covered at a contextual level in LPP1 strategic policy 2, a considerable body of work, including detailed landscape character analysis, would be required prior to formulating a detailed policy on gaps. In these circumstances it is my view that, rather than commission the extra work now, the option of a gap policy can be pursued as part of the Local Plan Review.

114. The Council considers that there is ample scope within the planning boundaries based on policy DM1 which are defined on the Policies Map, to accommodate the supply of 468 dwellings on windfall sites which are required as a component of the overall housing provision in the Plan (as considered under Issue 2 above). This was not robustly challenged during the examination, and on the evidence before me, I consider that this policy is not too restrictive in relation to the Plan's windfall target.

115. In relation to development management, the relevant policies in Section 4 of the Plan provide the necessary direction, address local issues and replace the remaining 'saved' policies. They have also addressed relevant uses raised by stakeholders and the public. Policy DM4 manages residential conversions in the countryside; policy DM19 aims to protect the best and most versatile agricultural land. Policy DM6 seeks to support sustainable growth and expansion of rural businesses whilst respecting the character of the countryside. In addition, policies DM10 (Employment Development in the Countryside) and DM11 (Existing Employment Sites in the Countryside) seek more generally to support sustainable growth and expansion of rural businesses whilst respecting the character of the countryside. These policies provide a more detailed framework than can be found in national policy and will assist in the delivery of an effective Plan.

116. In terms of uncertainties and risks, the Plan provides a positive and flexible framework for decision taking.

117. Finally, in relation to monitoring, this is done annually through the Authority Monitoring Report (AMR). The provisions for monitoring are covered in LPP1,

and I therefore agree with the Council that there is no need for a monitoring policy in this Plan. The Council has proposed that the AMR will be amended to add progress in NP preparation to its list of indicators, which I consider is appropriate.

Issue 6 - Conclusion

118. From the evidence before me, I conclude in relation to Issue 6, that the Plan is justified and effective and is in line with national policy and LPP1.

Assessment of Legal Compliance

119. My examination of the legal compliance of the Plan is summarised below. I conclude that the Plan meets them all.

120. The Lewes District Local Plan Part 2: Site Allocations and Development Management Policies has been prepared in accordance with the Council's Local Development Scheme.

121. Consultation on the Local Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.

122. Sustainability Appraisal has been carried out and is adequate.

123. The Habitats Regulations Appropriate Assessment Screening Report [August 2018] sets out why an AA is necessary for recreational pressure.

124. The Local Plan includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. The theme of sustainability permeates the entire Plan and several policies will help to secure that the development and use of land will contribute to the mitigation of, and adaptation to, climate change. These include the various policies on the protection of biodiversity, although some of the key policies such as those addressing coastal erosion and renewable and low carbon energy, are included in Part 1 of the Plan (LPP1).

125. In addition, the overall spatial focus on the main settlements for the majority of new development and policies generally aim to protect the countryside from development, and to allocate housing and employment land within or near to the urban areas. This strategy is intended to reduce the need to travel. Accordingly, the Plan, taken as a whole, achieves this statutory objective.

126. The Local Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

127. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of traveller sites to meet need and improving access to housing.

Overall Conclusion and Recommendation

128. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

129. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix, the Lewes District Local Plan Part 2: Site Allocations and Development Management Policies satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Mike Fox

Inspector

This report is accompanied by an Appendix containing the Main Modifications.