

15th February 2019

Dear Trevor,

Re: West Chiltoning Neighbourhood Plan

Following the meeting held at HDC on the 23rd January 2019 and your letter dated 31st January, the Parish Council makes the following observations.

HDC has not provided any evidence that the Plan does not meet the Basic Conditions and therefore has no legal basis upon which to refuse to move to Reg16.

HDC appears to have two strands of concern:

- a. the Reg 14 consultation process
- b. the assessment of sites including the housing site at Hatches Estate

Addressing these two areas of concern.

a. The Regulation 14 consultation process

Legal Framework

The Neighbourhood Planning (General) Regulations 2012

Pre-submission consultation and publicity

14. Before submitting a plan proposal to the local planning authority, a qualifying body must—

(a) publicise, in a manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area—

- (i) details of the proposals for a neighbourhood development plan;
- (ii) details of where and when the proposals for a neighbourhood development plan may be inspected;
- (iii) details of how to make representations; and
- (iv) the date by which those representations must be received, being not less than 6 weeks from the date on which the draft proposal is first publicised;

(b) consult any consultation body referred to in **paragraph 1 of Schedule 1** whose interests the qualifying body considers may be affected by the proposals for a neighbourhood development plan; and

(c) send a copy of the proposals for a neighbourhood development plan to the local planning authority.

The Neighbourhood Planning (General) Regulations 2012 paragraph 1 of Schedule 1

Consultation bodies that the Parish Council or Neighbourhood Forum should consult:

- In a London Borough, the Mayor of London
- A LPA, county council or parish council any part of whose area is in or adjoins the area of the LPA
- The Coal Authority
- The Homes and Communities Agency
- Natural England
- The Environment Agency
- English Heritage
- Network Rail Infrastructure Limited

- The Highways Agency
- The Marine Management Organisation
- Any person to whom the electronic communications code applies, or who owns or controls electronic communications apparatus situated in any part of the area of the LPA
- Where they exist a Primary Care Trust, licensee under the Electricity Act 1989, Licensee of the Gas Act 1986, sewerage undertaker and water undertaker
- Voluntary bodies whose activities benefit all or part of the neighbourhood area
- Bodies representing the interests of different racial, ethnic or national groups in the neighbourhood area
- Bodies representing the interests of different religious groups in the neighbourhood area and
- Bodies representing the interests of disabled people in the neighbourhood area.

The Consultation Process undertaken by WCNP

West Chiltington NP Team first publicised the NP at Regulation 14 in 2015 but the process then stalled and was not re-started until 2016.

The second Reg 14 consultation ran from the 10th May 2017 to June 21st 2017. In order that it should be brought to the attention of people who live, work or carry on business in the neighbourhood area the Plan was publicised in the following manner:

- by posters displayed across the Parish on noticeboards and in both shops
- by notice in the Parish Newsletter
- by notice on the Parish Council website
- by notice on the dedicated Neighbourhood Plan website
- by publicising on social media
- by discussion at the Parish Council meeting which is open to the public

A list of consultees as prescribed by Schedule 1 was also contacted by email along with neighbouring Parish Councils, the local school and two companies who had expressed an interest in the NP. The details of the consultation process are set out in the Consultation Statement and selected extracts appended. All evidence relating to the plan is contained on the dedicated NP website at www.westchiltingtonnp.co.uk

List of Consultees for Reg14 consultation by email:

South Downs National Park Authority
 West Sussex County Council
 Horsham District Council
 Natural England
 The Environment Agency
 English Heritage
 The Highways Agency
 NHS Coastal West Sussex CCG
 Southern Electric
 British Gas
 Southern Water
 Sussex Police
 CPRE
 Historic England
 Nyetimber Wines
 Pulborough P C
 Thakeham P C
 Storrington and Sullington PC
 Billingshurst PC
 West Chiltington School

DMH Stallard
Shaw Design Services

Responses to Reg 14 consultation

Responses were received from

Billingshurst PC
DHM Stallard
Environment Agency
Horsham DC
Highways England
Historic England
Natural England
National Trust
South Downs NP
Southern Water
Storrington PC
Strutt & Parker on behalf of Nyetimber Ltd
Strutt & Parker re Hatches Estate
Thakeham PC

There were also responses from 34 residents.

At this stage it was brought to the attention of the NP team that an old email address had been used for the communication with West Sussex County Council and they had therefore not responded.

A further 6-week period was advertised on the parish websites and an email sent to WSCC inviting their comments. This ran from 5th December 2017 to 16th Jan 2018.

WSCC responded on the 26th January 2018.

During this time the comments from the other consultees were not published so there was no disadvantage to WSCC and no advantage to the other consultees.

Regulation 14 does not preclude such actions.

HDC at the meeting constantly raised the issue that one landowner had not been contacted at Reg 14. The land in question was robustly independently assessed against the same criteria used for all sites. The land had previously been refused at appeal on two occasions, did not meet the requirements of the HDPF and was not identified as developable in the SHELAA. There is no requirement in the Regulations for the NP to consult the owners of every piece of land in the Parish. The NP team **publicised in a manner that was likely to bring it to the attention** of people who lived, worked or carried on business in the neighbourhood area as required by the Regulations. The landowners agent is resident in the Parish.

At the meeting Mr Kwan stated that the NP team should have evaluated the site for a lesser number of dwellings. The NP team do not agree. On neither occasion when HDC rejected the site for development was it suggested that the housing numbers were the reason for rejection. On neither occasion did the Examiner at appeal suggest that the site was suitable for a lesser number of dwellings. It is right and proper that the NP team should evaluate the site against current HDPF policies and the criteria set out by HDC and determine it unsuitable for development.

It was clear from the meeting that HDC was in possession of letters from the developer's agent that they have not shared with the Parish Council. The Parish believes it has a right to be made

aware of the specific allegations being made and why he believes that he would be successful at a Judicial Review.

b. Land at Hatches Estate

The land at Hatches Estate was identified in the 2016 SHELAA as developable for 15 units within 6-10 years (the revised 2018 SHELAA makes the same statement).

The narrative to the 2016 document states that the site could be suitable for 15 units but notes that there are a number of constraints to the site such as access and topography which could make the development unachievable in the short term.

The NP team evaluated the site and the documents submitted on behalf of the land owners using the criteria provided by HDC. This process was used for all sites to ensure that local bias could not be applied. The decision was that the access and topography along with the reduction in usable employment space made it un-developable in the life of the Plan. HDC stated at the meeting that the NP team should have met with WSCC to come up with proposals to overcome any access issues. The NP team do not agree. An evaluation of the transport plan submitted by the agents was undertaken and a reasoned argument put forward. WSCC did not make any comments about the site when consulted. It is the role of the NP to evaluate sites against a standard set of criteria set out by HDC. This has been done.

The Parish Council has written to HDC stating that it will of course re-evaluate all sites put forward when it reviews its Plan in two years time.

Submission Under Reg 15

On the 13th November 2018 the Parish Council resolved to adopt the submission version of the Neighbourhood Plan and submit it for Regulation 15 publication and Examination (Minute 163-18/19.1).

The Neighbourhood Planning (General) Regulations 2012 states that the draft plan should include:

1. a map or statement identifying the area to which the plan relates,
2. the consultation statement-which contains details of those consulted, how they were consulted, summarises the main issues and concerns raised and how these have been considered, and where relevant addressed in the proposed NDP
3. the proposed NDP
4. a statement explaining how the NDP meets the 'basic conditions' ie requirements of para 8 schedule 4B to the 1990 Act (see note 2 below)
5. one of the following
 - a) a statement of reasons for a determination under regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 that the proposal is unlikely to have significant environmental effectsor
 - b) an environmental report in accordance with paragraphs (2) and (3) of regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004
6. Where appropriate, the information to enable appropriate environmental assessments if required e.g. that will enable the LPA to make an assessment under the Conservation of Habitats and Species Regulations 2010 where the plan proposal is likely to have significant effects on a European site or European offshore marine site or the Environmental Assessment of Plans and Programmes Regulations 2004.

The basic conditions to be met by a draft NDP are set out in para 8 (1) (a) (2) of Schedule 4B to the Town and Country Planning Act 1990 (inserted by the Localism Act 2011)

1. Has regard to national policy and guidance from the Secretary of State
2. Contributes to sustainable development
3. General conformity with the strategic policy of the development plan for the area or any part of that area
4. Doesn't breach or is otherwise compatible with EU obligations-this includes the SEA Directive of 2001/42/EC

West Chiltoningon NP

The West Chiltoningon NP was accompanied by an SA/SEA Scoping report and a SA/SEA.

Each policy in the Plan is tested against the NPPF and the Horsham Development Framework

The Plan has a policy relating to sustainable development and also allocates a site for such development

The HDDF does not allocate a housing number to the Parish. The NP team has provided a reasoned argument for the approach it has taken backed up by research. All of the policies in the Plan are in general conformity with the development plan for the area.

Horsham DC response to Reg 15

HDC has responded stating that the WCNDP does not meet the basic conditions but has failed to indicate which sections of the legislation it considers are not met.


Whilst it is accepted that HDC has concerns the only way that they can refuse to accept the Reg15 Plan is if it doesn't meet the Basic Conditions.

At the meeting HDC raised concerns that the Plan would be likely to be subject to Judicial Review. Based upon the Regulations the Parish Council believes that the threat of Judicial Review is de minimis

Conclusion

If HDC are unable to establish a lawful basis to refuse this Plan it should be moved to Reg16 and onto Examination.

Yours sincerely



Marshall Monks
West Chiltoningon Parish Council

Evidence of Consultation

Please see the Consultation Statement [on our website](#)
Poster

**West Chiltington Neighbourhood Plan
Public Consultation
May 10th 2017 to June 21st 2017**

Extract from webpage

[HOME](#)

[ABOUT NEIGHBOURHOOD PLANNING](#)

[REG15 SUBMISSION PLAN](#)

[MEETING NOTES](#)

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Draft Pre-Submission Plan 2017

The Consultation process is being re-run because WSCC did not have a chance to comment as the wrong email address was used. The Parish Council has therefore re-run the process and seeks comments on the Regulation Pre-submission Plan. The consultation runs from the 5th December 2017 and 16th Jan 2018.

As you will be aware, the Neighbourhood Plan team has been working for about three years on producing a Neighbourhood Plan for West Chiltington. Volunteers have been gathering evidence by survey and community events to identify key issues the parish wants to address in the Plan. Our sincere thanks go to these volunteers, who have given many hours of their time.

The whole process has been driven by what you have told us with the aim to ensure that the Plan reflects the needs of the community. The Plan has stalled for a time and is now being relaunched in a new format which reflects the changing national picture relating to Neighbourhood Plans. It should produce a more robust Plan which is less open to challenge by developers.

The Neighbourhood Plan Group believes that the best option for the community is to have control over issues affecting them.

On the 9th May 2017 the Parish Council resolved to submit the Plan to consultation under Reg14.

To view the Pre-Submission Draft Neighbourhood Plan and the supporting documents please follow the links below. Copies are available at the Reading Rooms (during normal opening times). Feel free to make comments at any time even if we are not formally consulting. It is your Plan, we need your views. All comments received will be published and given to Horsham DC. Please indicate if you do not wish this to happen.

The consultation runs from 10th May 2017 to June 21st 2017.

asked to cast your vote at a public referendum. It is therefore important that you understand and agree the policies it contains.