

**Rother Development and Site Allocations Local Plan
Examination**

Matter 3: Relationship with Neighbourhood Plans

Statement by Rother District Council

17 April 2019

Please note all references to documents listed in this statement can be found
in the DaSA Examination Documents List at:
www.rother.gov.uk/dasa/examination

Introduction

1. This statement presents the Council's evidence in relation to the key issue raised by the Inspector concerning the relationship with neighbourhood plans, namely:

Whether the Plan is effective in the preparation of neighbourhood plans in the district.

2. In responding to this key issue, attention is given to the following specific questions raised by the Inspector.

Q: Has the Plan avoided duplicating the planning processes for non-strategic policies in accordance with paragraph 185 of the Framework?

3. The majority of policies in the DaSA are non-strategic (the exceptions are listed in the DaSA¹ and include DHG1: Affordable Housing, DHG2: Rural Exception Sites, DEN3: Strategic Gaps and HAS1: Combe Valley Countryside Park).
4. Paragraph 185 of the NPPF seeks to avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.
5. Paragraph 1.27 of the DaSA explains that the sites allocated in the Plan cover Bexhill and villages that are not covered by a neighbourhood plan. This approach ensures that there is no duplication in respect of the allocation of specific sites for development within Neighbourhood Plan areas.
6. The table below outlines which settlements have site allocations (6 or more dwellings) in the DaSA and those that will be the subject of neighbourhood plans:

DaSA Allocations	NP Allocations
Beckley Four Oaks	Sedlescombe NP
Bexhill	Salehurst and Robertsbridge NP
Broad Oak	Ticehurst NP
Camber	Crowhurst NP
Fairlight Cove	Rye NP
Iden	Battle NP
Northiam	Etchingam NP
Peasmarsh	Hurst Green NP
Rye Harbour	Burwash NP
Westfield	

¹ Paragraph 1.29 of the DaSA (Reference C1)

7. There are two 'Made' Neighbourhood Plans in the District for Sedlescombe² and Salehurst and Robertsbridge³. There are a further three Neighbourhood Plans⁴ which just gone through Examination and their respective Examiner's Reports now published. In addition, there are four Neighbourhood Plan areas⁵ which are yet to reach Regulation 14 stage.
8. In addition to specific 'site allocations', the Core Strategy also identified the need for a "Part Two" Plan to set out policies that further elaborate certain topics, in order to provide a proper basis for local development management⁶. These consist of the DaSA's 'development policies', and are laid out under the Core Strategy's thematic headings. Most of these topic policies are generic, in that they can be applied to any location within the district, although some apply exclusively to certain locations, such as Policy DEN2 which relates to proposals within the High Weald AONB. As stated previously, although generally non-strategic, some DaSA policies are strategic insofar as they are updates to, or give spatial expression to, Core Strategy Policies⁷.
9. Therefore, outside of site specific policies, the DaSA includes development management policies, covering Neighbourhood Plan areas and non-Neighbourhood Plan areas alike. Neighbourhood Plans have the opportunity to seek to reinterpret these policy areas in a manner that may be more nuanced to their particular area. Notably, in respect of the 'Made' Neighbourhood Plans, specifically Salehurst and Robertsbridge Neighbourhood Plan (SRNP), this has some development management policies which overlap with the non-strategic policies of the DaSA.
10. For example Policy EN3 in the SRNP overlaps with policy DEN2 in the DaSA as it relates to the countryside protection and the Parish's place within the AONB. The policy states that *'development will only be permitted where it conserves or enhances the natural beauty of the Parish and has regard to the High Weald AONB Management Plan'*. In addition, it states that development will take opportunities to improve water quality and management, respect the settlement pattern, relate development to important features, retain ancient woodland and conserve and enhance ecology. It is considered that Policy EN3 in the SRNP aligns with the function of Policies DEN1, DEN2 and DEN4 of the DaSA. In respect of the other 'Made' plan, Sedlescombe Neighbourhood Plan, it allocates sites for housing, employment and green space rather than having specific development management policies.

² 'Made' on 23rd April 2018

³ 'Made' on 9th July 2018

⁴ Crowhurst Parish, Rye Parish and Ticehurst Parish.

⁵ Battle Civil Parish (including Netherfield), Burwash Parish, Etchingham Parish, Hurst Green Parish

⁶ Reference SA4, Page 8, Paragraph 1.9

⁷ The following policies in the DaSA - Strategic Gaps (DEN3) and Combe Valley Countryside Park (HAS1) give spatial expression to Core Strategy policies RY1(xii), HF1(iii) and HF1(i) respectively, they are also regarded as strategic.

11. A further example but within an *emerging* Neighbourhood Plan is Policy R1 of the emerging Ticehurst Neighbourhood Plan, which extends the reach of DaSA Policies DEN1 and DEN2, by identifying important local views which are not included in the DaSA policies.
12. Therefore, whilst Neighbourhood Plans may cover some of the same topics as those in the DaSA, generally any overlapping Neighbourhood Plan policies should effectively extend the scope of the DaSA's policies to the specific identified needs of the local area. This means that processes for non-strategic policies will not be duplicated but would work in conjunction.
13. Neighbourhood Plan groups are supported by the District Council to ensure that proposed Neighbourhood Plan policies (particularly development management policies) are in general conformity with the local plan.
14. In terms of employment sites, the allocation in the DaSA at Marley Lane⁸, whilst located in Sedlescombe Parish does not conflict with the Sedlescombe Neighbourhood Plan as it was agreed with the Parish Council that Marley Lane would be an allocation in the DaSA. However, this does not preclude emerging Neighbourhood Plans from allocating employment land, and indeed the Employment Sites Review states that Neighbourhood Plans should consider making their own allocations based on local business needs⁹.
15. In conclusion, the DaSA can be said to avoid duplication of planning process for non-strategic policies.

Q: Does the Plan give an adequately clear brief to neighbourhood planning bodies about what they need to do to be in general conformity?

16. The DaSA is effectively “Part Two” of the Council's Local Plan. It has been prepared to be in general conformity with the Core Strategy. Paragraph 1.5 states that the DaSA needs to be read in conjunction with made Neighbourhood Plans which form part of the ‘development plan’ for their area. This paragraph goes on to say that, taken together, the DaSA and Neighbourhood Plans should allocate the sites necessary to meet the Core Strategy's settlement housing targets. Neighbourhood Plans may also contain other land use policies which reflect local priorities and should be read in conjunction with the district-wide policies in the Local Plan.

⁸ Policy MAR1

⁹ Page 50, Rural Areas (ii) (Reference SF1)

17. Therefore, to be in conformity with the strategic policies of the Local Plan, neighbourhood plans need to allocate sites in line with the development targets set out in the respective policies in the Core Strategy¹⁰. A detailed breakdown of the housing requirement for each of the rural villages is provided in Figure 12¹¹ which supports Policy RA1. Figure 17 of the DaSA¹² indicates the residual housing requirements from larger sites (6+ dwellings) in the villages and differentiates between settlements covered by the Plan and those covered or being covered by Neighbourhood Plans. The figure clearly identifies the number of net additional dwellings that need to be provided within the plan period within each settlement. This table provides clear information to neighbourhood plan groups on the number of additional dwellings required in their settlement in order to be in general conformity with the Core Strategy. It should be noted that some Neighbourhood Plan areas include more than one of the settlements listed in the table.
18. Whilst it is the Core Strategy that sets out the strategic policies of the local plan, where DaSA policies provide updates to a number of Core Strategy policies, they should be considered as strategic. The relevant Policies are DHG1: Affordable Housing, DHG2: Rural Exception Sites, DEN3: Strategic Gaps and HAS1: Combe Valley Countryside Park¹³. Paragraph 184 of the NPPF (2012) explains that neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.
19. In terms of employment provision, the Core Strategy¹⁴ identifies a total requirement for employment floorspace for Rural Areas as 10,000sq.m. Requirements are not allocated to individual villages or parishes, therefore, neighbourhood plans would not need to meet the overall employment space target but can contribute towards this where there are clear opportunities to do so. Nevertheless, the Employment Sites Review Background Paper states that Neighbourhood Plans should consider making their own allocations based on local business needs¹⁵.
20. As individual Neighbourhood Plans come forward and are progressed, Rother District Council works with Neighbourhood Plan Steering Groups to ensure that the plan is in general conformity with both the Core Strategy and the development policies of the DaSA. The plan clearly sets out the residual housing numbers required for each neighbourhood plan settlement and guidance will be and has been provided by the Council to ensure general conformity with the local plan.

¹⁰ Reference SA4, Policies BX1, BA1, RY1, RA1

¹¹ Page 84 of the Rother Local Plan Core Strategy (Reference SA4)

¹² Page 108 of the DaSA (Reference C1)

¹³ Paragraph 1.29 of the DaSA (Reference C1)

¹⁴ Page 136

¹⁵ Page 50, Rural Areas (ii) (Reference SF1)

Q: Does the Plan propose any policy that will supersede a policy in a made Neighbourhood Plan? If so has this been clearly identified?

21. Any conflict between Local Plan Policies and Neighbourhood Plan policies must (according to the s38 of the Planning and Compulsory Purchase Act) be resolved in favour of the most recent plan. This means that in areas of conflict the DaSA would take precedence over the Neighbourhood Plan.
22. There are two 'Made' Neighbourhood Plans in Rother District – Sedlescombe and Salehurst and Robertsbridge.
23. As Neighbourhood Plans are progressed, Rother District Council works with Neighbourhood Plan Steering Groups/Parish Councils to ensure that the plan is in general conformity with both existing and emerging Local Plan policies.
24. Appendix 1 to this Statement sets out where there may be potential areas of conflict in respect of policies contained in the respective Neighbourhood Plans and the DaSA. In addition, the Neighbourhood Plans which have just through Examination are also considered in terms of potential areas of conflict.

Sedlescombe Neighbourhood Plan (SNP)

25. With regard to the SNP, it is not considered that there are any policies within that Neighbourhood Plan which would be superseded by policies contained within the DaSA. This is because the Neighbourhood Plan primarily allocates sites for development or green space and does not contain development management policies.

Salehurst and Robertsbridge Neighbourhood Plan (SRNP)

26. With regard to the SRNP, it is identified that there are two policies where there is potential conflict – Policies EC3, and LE2.
27. Policy EC3 in the SRNP¹⁶ sets out the approach to the retention of existing employment sites in the Neighbourhood Plan area. The corresponding DaSA Policy DCO1 relates to sites of social or economic value, which includes employment sites *and* other community facilities (see DCO1¹⁷ for list of other uses included).
28. While both policies are similar in that it must be demonstrated that the site is not financially viable, the SRNP requires that the site has not been in active use for 24 months and that a marketing campaign for the site must last for at least 6 months. The approach within the DaSA policy requires a marketing campaign of at least 18 months. This would therefore represent a conflict with criterion 2 of Policy EC3 of the SRNP and DaSA policy DCO1 (i). The DaSA Policy would therefore supersede criterion 2 of Policy EC3.

¹⁶ Reference PS3, Policy EC3, page 25

¹⁷ Reference C1, Policy DCO1, page 26

29. Policy LE2 in the SRNP¹⁸ relates specifically to loss of leisure/cultural facilities in the Neighbourhood Plan area. The corresponding DaSA Policy DCO1 relates to sites of social or economic value, which includes employment sites *and* other community facilities (see DCO1¹⁹ for list of other uses included).
30. Criterion (1) of Policy LE2 requires that proposals which result in the loss of leisure and cultural facilities are to be resisted unless “*it can be demonstrated that the facilities are no longer needed or viable...*” Whilst the policy requires a demonstration that the site in its existing use is no longer viable, it is not explicit as to what evidence would be required to demonstrate that the existing use is no longer needed. Policy DCO1 in the DaSA requires a marketing campaign of at least 18 months which clearly indicates lack of demand for the existing use. Decisions relating to proposals involving the loss of existing leisure and cultural facilities would therefore need to refer to Policy DCO1 of the DaSA, as well as the SRNP policy. In this instance, the Policies would need to be read in conjunction and as such, this is not considered to represent a conflict between the two Policies

Neighbourhood Plans which have been through Examination

31. The District Council has received three Neighbourhood Plan Examiners Reports²⁰ since the start of this Examination process. As such it is considered appropriate to highlight any potential conflict in respect of these ‘post-examination’ Plans.

Crowhurst Neighbourhood Plan

32. With regards to Crowhurst Neighbourhood Plan (CNP), the modifications recommended in the Examiner’s Report sets out that Policy CB1 (Design) at criterion 3 that ‘*new housing is also encouraged to meet the Accessible/Adaptable Dwelling standard M4(2) of the Building Regulations or any future review of this standard*’. There is some overlap with Policy DHG4 in the DaSA. The second paragraph of DaSA Policy DHG4, sets out that all new dwellings are required to meet the optional accessibility standard M4(2), which is derived from the Government’s introduction of new accessibility standards in Part M of Schedule 1 of the Building Regulations.²¹
33. Therefore, subject to the modifications to the CNP Policy CB1, Criterion 3 only *encourages* new housing to meet the Accessible/Adaptable Dwelling standard M4(2), and therefore, unlike DHG4, does not require M4(2) to be *mandatory* of all new dwellings. Prior to Examination, the Crowhurst policy required the standard to be mandatory; however, the Examiner stated that it is appropriate only for Local Plan policies and not for Neighbourhood Plan policies to require optional technical standards, such as M4(2). Consequently, Policy DHG4 of the DaSA will supersede Criterion 3 of CNP Policy CB1, upon adoption.

¹⁸ Reference PS3, Policy LE2, page 45

¹⁹ Reference C1, Policy DCO1, page 26

²⁰ Crowhurst Neighbourhood Plan (Reference PS9), Rye Neighbourhood Plan (Reference PS7), and Ticehurst Neighbourhood Plan (Reference PS5),

²¹ As amendments to the Building Act 1984, through the Deregulation Act 2015

Rye Neighbourhood Plan

34. With regards to Rye Neighbourhood Plan (RNP), it is identified that there is one policy where there is potential conflict – Policy B1 (Employment).
35. The final paragraph of Policy B1 in the RNP seeks to resist the loss of existing employment sites by ensuring that the loss of such sites can only take place where it can be demonstrated that the site is no longer serviceable in its existing use. Policy DCO1 in the DaSA establishes the approach for the district-wide strategy to resist the loss of sites of social or economic value, unless it can be demonstrated that there is no reasonable prospect of continued use. To demonstrate this, proposals are required by DCO1 (i) *to provide evidence of a sustained marketing campaign, lasting at least 18 months*; and (ii), *to provide to evidence that the unit/site is not capable of being financially viable*. Like Criterion (i) of DCO1, Policy B1 establishes that this is to be demonstrated by evidence of a sustained marketing campaign, lasting at least 18 months. However, Policy DCO1 Criterion (ii) also requires the backing evidence to demonstrate that the site is not capable of being financially viable in its existing use. This second requirement, regarding viability, is not set out in RNP Policy B1. Decisions relating to proposals involving the loss of land used for employment purposes would therefore need to refer to Policy DCO1 of the DaSA, as well as the RNP policy. In this instance, the Policies are considered to be complementary, but DCO1 is further reaching in that it requires viability evidence to demonstrate that the site is not or is not capable of being financially viable.

Ticehurst Neighbourhood Plan

36. With regard to Ticehurst Neighbourhood Plan (TNP), it is identified that there are three policies where there is potential conflict – Policies H4, E1 and E4.
37. Policy H4 (Affordable Housing) in the TNP requires that on *‘developments of 6 to 10 houses should provide an affordable housing contribution in the form of a financial contribution. New developments of more than 10 houses should provide at least the 40% affordable housing’*. However, Policy DHG1 (iv) (a) of the DaSA requires, in rural areas in the AONB *‘...40% onsite affordable housing on schemes of 6 dwellings or more (or 0.2 hectares or more)...in normal circumstances, the full affordable housing obligation should be met on site...’*
38. This represents a conflict between the two policies as the DaSA policy requires 40% affordable housing on schemes of 6 dwellings or more rather than this taking the form of a financial contribution on schemes of 6-10 dwellings.
39. Therefore, there would be conflict between Criterion 1 of Policy H4 of the TNP and DaSA policy DHG1. In this instance, DHG1 would supersede Policy H4.

40. In respect of Policy E1 (Protect and Enhance Local Services and Facilities) in the TNP, it requires proposals which result in the loss of existing retail and local services to demonstrate that there is a lack of demand for the existing use, by evidence of a marketing period of at least 18 months. Criterion (i) of DaSA Policy DCO1 also requires this. However, Policy DCO1 (ii) also requires evidence to demonstrate that the site is not capable of being financially viable in its existing use. Policy E1 does not include consideration of viability. Therefore, decisions relating to proposals involving the loss of existing retail and local services would need to refer to Policy DCO1 of the DaSA, as well as the Neighbourhood Plan policy. In this instance, the Policies are considered to be complementary, but DCO1 is further reaching in that it requires viability evidence to demonstrate that the site is not or is not capable of being financially viable.
41. In respect of Policy E4 (Protect and Enhance Existing and Encouraging Additional Commercial Employment Sites) in the TNP, the policy relates to both existing employment sites and new employment sites. The policy states *“Existing commercial employment sites should be protected and enhanced...”*, however, it does not provide an approach to resisting the loss of such sites. DCO1 of the DaSA and E4 of the Ticehurst Neighbourhood Plan provide detail with regard to demonstrating a lack of demand for a site in its existing use, as evidenced by a period of marketing of at least 18 months. This approach is not replicated in Policy E4. Therefore, decisions relating to proposals involving the loss of existing retail and local services would need to apply Policy DCO1 of the DaSA, as well as the Neighbourhood Plan policy. In this instance, the Policies would need to be read in conjunction and as such does not represent a conflict.
42. In summary, it is considered that there are no areas of significant conflict between the DaSA and post Regulation 16 Neighbourhood Plans. There are no policies which undermine the policies of another development plan document.
43. However, the following Neighbourhood Plan Policies below would be superseded by DaSA Policies DCO1 and DHG1 respectively:
- Policy EC3 of the SRNP
 - Policy H4 of the TNP
44. The other neighbourhood plan policies would be read in conjunction with the DaSA policies and as such, are considered to complement the DaSA rather than conflict with them.
45. In terms of setting out where Neighbourhood Plan policies are superseded by DaSA policies an amendment is proposed to Appendix 2 in the DaSA to list the policies which will be superseded by the DaSA.

Proposed Modifications:

46. Amend Appendix 2 title:

Superseded Local Plan 2006 policies and Neighbourhood Plan policies

47. Add new title before 15.1 Development Strategy to say:

Superseded Local Plan 2006 policies

48. Add new title after 15.10 to say:

Superseded Neighbourhood Plan policies

Ticehurst Neighbourhood Plan

Policy H4 Affordable Housing, criterion 1

Salehurst and Robertsbridge Neighbourhood Plan

Policy EC3 Employment Retention, criterion 2

Appendix 1: Potential Areas of Conflict

DaSA Policy	Made Neighbourhood Plans		Post Examination Neighbourhood Plans		
	Sedlescombe NP	Salehurst and Robertsbridge NP	Ticehurst NP	Rye NP	Crowhurst NP
DRM1: Water Efficiency					
DRM2: Renewable Energy Developments					
DRM3: Energy Requirements					
DCO1: Retention of Sites of Social or Economic Value		EC3. LE2	E1, E4	B1	
DCO2: Equestrian Developments					
DHG1: Affordable Housing			H4		
DHG2: Rural Exception Sites					
Policy DHG3: Residential Internal Space Standards					
DHG4: Accessible and Adaptable Homes					CB1
DHG5: Specialist Housing for Older People					
DHG6: Self-build and Custom Housebuilding					
DHG7: External Residential Areas					
DHG8: Extensions to Residential Gardens					
DHG9: Extensions, Alterations and Outbuildings					
DHG10: Annexes					
DHG11: Boundary Treatments					
DHG12: Accesses and Drives					
DEC1: Shopfronts, Signage and Advertising					
DEC2: Holiday Sites					
DEC3: Existing Employment Sites and Premises					
DEN1: Maintaining Landscape Character					
DEN2: The High Weald Area of Outstanding Natural Beauty (AONB)					
DEN3: Strategic Gaps					
DEN4: Biodiversity and Green Space					
DEN5: Sustainable Drainage					
DEN6: Land Stability					
DEN7: Environmental Pollution					
DIM1: Comprehensive Development					
DIM2: Development Boundaries					