

Report to	-	Executive Director of Business Operations
Date	-	9 <sup>th</sup> April 2018
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Examiner’s Report into the Salehurst and Robertsbridge Neighbourhood Development Plan 2016-2028

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**Recommendation: That: Under the Executive Director’s delegated authority, it be decided that the Salehurst and Robertsbridge Neighbourhood Development Plan incorporating the Examiner’s modifications, as set out at Appendix 2, proceed to local Referendum, and that the Referendum Area be the Parish.**

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## Introduction

1. The Examiner, Mr. John Slater, appointed with the agreement of Salehurst and Robertsbridge Parish Council, to consider whether the Parish Council’s submitted Neighbourhood Development Plan meets the required ‘basic conditions’, issued his Report on 23<sup>rd</sup> January 2018. It is attached as Appendix 1. The substantive assessments of the thirty-three policies of the Neighbourhood Plan are contained on pages 15 to 32 of his Report, while other sections also duly consider other related matters, such as the Strategic Environmental Assessment and consultation process.
2. Attention is drawn to the earlier Cabinet report of 13<sup>th</sup> March 2017, which summarises the submitted Plan and its background, as well as contains this Council’s own representations.
3. This report focuses on the legal responsibilities of this Council, to consider the Examiner’s recommendations and to decide whether the Plan, with the Examiner’s modifications, meets the required ‘basic conditions’, such that it should proceed to referendum.

## The Examination

4. The Examiner requested a hearing, which was held September 27<sup>th</sup> 2017, to explore issues surrounding the allocation of the Mill; flooding mitigation of the Mill site; the robustness of the SEA and site assessments; Local Green Spaces; and the allocation of and access to, the Vicarage Land.
5. At the hearing, access to the Mill Site was the main issue. Due the site being within a Flood Zone, the Examiner was concerned about access to the site in times of a major flooding event. At the time of the hearing, no mitigation was in place to ensure safe access and escape from the site in such an event. Developers for the site mooted an emergency access road from the A21, which the Examiner indicated was necessary and gave the developers two months to provide requisite certainty of this access for emergency vehicles in perpetuity, to inform his report. This timescale was met by the developers.

6. The Examiner also expressed reservations with aspects of the SEA, in particular the regard to the sequential test requirements of the NPPF and the relative scoring of alternative sites. He similarly gave the Parish Council the opportunity to produce a revised version, which it did in October 2017. The Examiner then undertook a focused consultation on this revised SEA, which ran from 1<sup>st</sup> November to 28<sup>th</sup> November 2017.

### **Examiner's recommendations**

7. Overall, Mr. Slater concludes: *"I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made."* (page 34)
8. The Examiner duly noted concerns in regards to the Mill site being within a Flood Zone, which specifically impeded the access to the site in a major flooding event, but with, and the securement of an access road to the site from the A21 (which should be available in perpetuity for the lifetime of the development), the Examiner was content that the Mill site would meet basic conditions. Had the Developers of the Mill Site not been able to secure the access road to the Mill Site, the Examiner was clear that he would have recommended that the Plan not proceed to referendum.
9. Mr Slater also recognised that the Mill Site is one of the few opportunities to get new employment floorspace provided within the Plan area, so agreed with this Council to make provision for at least 1,200sqm commercial floorspace as part of a mixed-use allocation.
10. At the same time, he noted that the Mill Site developers indicated that, for viability reasons, the development would only be able to make a nominal contribution to affordable housing. He also believed that this would be the case, having regard to uncertainties around the actual condition of the Mill Building, potential land contamination and the high development costs associated with restoration and conversion of the historic buildings.
11. With an unmet need for affordable housing in mind, the Examiner considered other housing sites. He noted that the Grove Farm site is already allocated in the Local Plan and gave this weight, agreeing that is within easy walking distance of shops and services and would have little effect on the character of the AONB or setting of the village, allied to which there were assurances that it would deliver its full quota of affordable housing, which would help meet local needs. He acknowledged concerns over the site, but felt that they were not adequate reasons for the site to not be developed. He agreed with the Parish Council not to provide for the development of the Bishops Fields, although he did not feel that they warranted 'local green space' designation.
12. The Examiner felt that it was not necessary to indicate approximate capacities of sites within the policy, instead saying that they would be more appropriately identified through planning applications. However, while recommending the removal of uncertain figures from the policy, he still concludes that the Plan would meet the housing requirements as set out in the Core Strategy.

13. In respect of the wide range of topics covered within the Plan, the Examiner recommended many detailed amendments, mainly for conformity and clarity reasons. He recommends the deletion of five policies, as being either unnecessary or unjustified departures from national or strategic policies (being those relating to renewable energy and energy efficiency (EN5), housing requirements (HO2) affordable housing (HO6), parking (IN1), flood risk (IN8)).
14. The Examiner is also required to determine the Referendum area. He does this on page 32 of his report, finding that it should be the (Parish) area as designated by Rother District Council on 13<sup>th</sup> April 2015.

### **Consideration of the Examiner's report and proposed modifications**

15. The Council must now consider each of the Examiner's recommendations. It is not obliged to accept them, but should be aware that the purpose of the examination is to provide independent scrutiny by a duly qualified person. The legislative position<sup>1</sup> is that the Authority can only make modifications post-examination if it considers them necessary to meet the 'basic conditions', be compatible with Convention rights, accord with relevant Regulations or to correct errors. Also, in this event, further consultation and potentially a further examination would be required.
16. For reference, the 'basic conditions' relate to the need to:
  - have regard to national policies and advice
  - contribute to sustainable development
  - be in general conformity with the development plan's strategic policies
  - not breach or otherwise be incompatible with EU obligations
17. Overall, it is believed that Mr. Slater has undertaken a fair and robust examination of the submitted Neighbourhood Plan, properly considering all duly-made representations.
18. It is noted that the Examiner has endorsed virtually all the detailed representations that this Council submitted in order to ensure that the Neighbourhood Plan would meet basic conditions, particularly general conformity with the Core Strategy.

### **Other matter – Impact on Ashdown Forest**

19. One consideration that has arisen since the examination is the further air quality monitoring undertaken by Wealden District Council in respect of the condition of the Ashdown Forest Special Area of Conservation (SAC). The effects of the Neighbourhood Plan on this has previously been screened out. However, in light of the new information, a further screening has been undertaken. Assuming developments were built at the upper end of the indicative capacities, it is found that, when taken together, the increase in traffic movements would still be nugatory. Hence, even in combination with other plans and projects, there is no likelihood of the Plan having a likely significant effect on the SAC. It may therefore progress to referendum.

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<sup>1</sup> Paragraph 12(6) of the Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and the Planning and Compulsory Purchase Act 2004 (as amended).  
Consideration of the Examiner's Report 3

## **Parish Council Response and Referendum version of the Neighbourhood Plan**

20. Salehurst and Robertsbridge Parish Council has advised that it has agreed to accept all of the modifications recommended by the Independent Examiner. It has also worked closely with officers to make the necessary consequential amendments to the Neighbourhood Plan for it to progress to Referendum.
21. A full draft of the Salehurst and Robertsbridge Neighbourhood Plan, incorporating all of the Examiner's modifications, consequential changes, and updating, as agreed with the Parish Council, has been collated and is contained in Appendix 2. A separate Schedule of changes has also been prepared.

## **Conclusion, Implications and Referendum**

22. In light of representations on the submitted Salehurst and Robertsbridge Neighbourhood Development Plan, the Examiner, Mr. Slater, has carefully considered whether it meets the necessary 'basic conditions' and found that it does, subject to a number of modifications. Planning officers accept his conclusions, as does the Parish Council; hence, it is recommended to endorse the Examiner's recommendations, at Appendix 1, and put the modified version of the Neighbourhood Plan, at Appendix 2, forward for Referendum to the residents of Salehurst and Robertsbridge Parish.
23. If there is a majority support for the Neighbourhood Plan at Referendum, this Council will be obliged (subject to certain, limited exceptions) to formally make it part of statutory development plan. At that point, its 'development boundary' for Robertsbridge, its development allocations, as well as the Local Green Space designations, will become the primary policy references for the purpose of determining most planning applications in the Parish.
24. Attention is drawn to the fact that, a consequence of the Neighbourhood Plan being made, the development boundary for Robertsbridge, together with the associated development allocations, as defined in the Rother District Local Plan 2006, will be superseded.
25. The other notable implication of making the Neighbourhood Plan is that Parish Council will then receive 25%, rather than the current 15%, of Community Infrastructure Levy receipts from future developments in the Parish.
26. As regards the local Referendum, it is envisaged that it will be held around late May/early June, enabling it to progress to Cabinet and Full Council in early July.

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