

**Outline Written Statement to the Examiner on Behalf of
The Rector and Scholars of Exeter College (14 Sept 2017)**

1. Introduction

- 1.1 With reference to the document titled 'Guidance Notes and Agenda for Public hearing to be held on 28 September 2017' issued by the Examiner of the Salehurst and Robertsbridge Neighbourhood Plan (dated 21 August 2017), we note that the Examiner has invited further comments relating to a total of 8 no. of questions as set out in pages 4-6 of the document.
- 1.2 On behalf of our client, The Rector and Scholars of Exeter College, we provide responses relating to Questions 1, 2, 3, 4, 6, and 8.

2. **Question 1**

- 2.1 ***“Has the Neighbourhood Plan applied a sequential risk based approach to the identification of its residential development sites? Would it be possible for the plan to achieve its housing requirements without proposing homes to be built in areas at risk from flooding?”***

Our Response

- 2.2 We addressed this issue on pages 7 and 8 of our objection letter to the Hodson’s Mill Site application (LPA Ref. RR/2017/382/P) dated 21 July 2017 and as contained at **Appendix 1**.
- 2.3 We would like to take this opportunity to reiterate that the emerging Salehurst and Robertsbridge Neighbourhood Plan (SRNP) has not applied appropriate sequential testing to NPPF requirements when selecting housing sites for allocation.
- 2.4 We have reviewed the ‘Strategic Environmental Assessment (SEA) Report of the Salehurst and Robertsbridge Neighbourhood Development Plan’ that was produced by the Parish Council dated December 2016. The SEA appears to rely on a sequential test that was undertaken in the ‘Strategic Flood Risk Assessment – Level 1’ (August 2008) and the ‘Strategic Flood Risk Assessment – Level 2’ (June 2008). However, neither document properly applies a sequential test to inform site allocations in Robertsbridge as it merely identifies at a strategic level that certain towns and villages within the District will likely experience flood risk issues and that Robertsbridge is one of these. Paragraph 101 of the National Planning Policy Framework (NPPF) recognises that Strategic Flood Risk Assessments (SFRAs) will only provide the basis for applying the sequential test but by no means should the Parish rely on this document when undertaking the sequential test when allocating sites for the SRNP.
- 2.5 We therefore agree with Rother District Council (RDC) in their formal comments to the emerging SRNP that the Parish has not undertaken a robust sequential testing exercise to properly inform its proposed site allocations in-line with the NPPF and thereby the proposed allocation of up to 100 no. of new homes on the Hodson’s Mill Site is, in the words of RDC, ‘highly optimistic’ and thereby considered flawed and premature.
- 2.6 Salehurst and Robertsbridge Parish Council have not provided any justification why they are seeking to locate homes in an area at risk from flooding with all the implications that brings for future residents in terms of their safety, personal property, financial wellbeing and human rights.
- 2.7 The emerging SRNP has never seriously considered alternative and safer sites. The exclusion of the presently allocated Grove Farm site highlights the absence of an evidence-based approach. The Neighbourhood Plan therefore fails to meet the Basic Conditions.
- 2.8 We are of the view that it would be possible in principle for the SRNP to achieve its housing requirements without proposing homes to be built in areas at risk from flooding. The Grove Farm site (being in Flood Zone 1) is located at the centre of Robertsbridge and has an existing housing allocation of 30 no. of residential units that would help accommodate a significant proportion of the residential units in the Mill Site that are located on Flood Zones 2 and 3.
- 2.9 However, on the basis that safe access cannot be guaranteed for those properties within Flood Zone 1 contrary to national planning policy, the allocation must fail and the Neighbourhood Plan cannot proceed. We reluctantly conclude that a new evidence-led exercise to identify suitable sites is essential as the safety of future residents is paramount.

3. **Question 2**

- 3.1 ***“Does the allocation of the Mill Site for 100 dwellings unnecessarily put people and properties at risk of flooding? What are the implications of the site access being through land in Flood Zone 3? Is the Mill Site in Flood Zone 3a or 3b? Is there information available about ‘the frequency, impact, speed of onset, depth and velocity of flooding with relation to this site’ and what allowance should be given to existence of the flood defence scheme that has been completed? Can a safe access and escape route to the site be maintained in times of flood?”***
- 3.2 It is noted that the site’s access and a large part of the surrounding area are wholly within Flood Zone 3. In the Environment Agency’s response to the Hodson’s Mill Site application dated 19 June 2017, it recognised that the applicant has made no attempt to assess the hazard posed by the depth of flooding in the Flood Risk Assessment (FRA) other than to confirm that it will not be possible to provide a safe escape route.
- 3.3 In addition, it recognised that given the potential depth of flooding, it is clear that a flood event could pose a significant risk to the safety of people and property. In-line with the Environment Agency’s concerns, we are of the view that the applicant has not demonstrated that a safe access and escape route to the site can be maintained in times of flooding, thereby unnecessarily putting people and properties at risk of flooding.
- 3.4 Clearly, if the applicant of the Mill Site is unable to demonstrate suitable safe access and escape routes from the development at times of flooding, it raises serious doubts as to whether the entire site is suitable for housing and meeting the circa 100 no. of new houses as allocated in the emerging SRNP.
- 3.5 The allocation of the Mill Site within the Neighbourhood Plan is therefore a leap of faith and raises questions over the ability of the Plan to deliver sustainable development.
- 3.6 The allocation of the Mill Site does not demonstrate an appropriate response to climate change; brings the risk of adverse health and social issues; and is clearly the wrong location for housing growth in the Village. The emerging SRNP is therefore contrary to the definition of Sustainable Development as defined in the NPPF and fails to meet the Basic Conditions.

4. Question 3

- 4.1 ***“Are the benefits of the redevelopment of a previously developed, brownfield site and the putting to beneficial use historic buildings sufficient to outweigh the presumption against locating what is classed as ‘more vulnerable’ developments in Flood Zone 2 and 3? Is it appropriate to rely upon the Exception Test when it comes to site allocations in a Neighbourhood Plan if there is land available for residential purposes outside the flood area?”***
- 4.2 Paragraph 100 of the NPPF is clear in that ‘inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk’. The Planning Practice Guidance (PPG) reinforces this by recognising that the NPPF ‘sets strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where tests are not met, national policy is clear that new development should not be allowed’.
- 4.3 There are no relevant tests in national planning policy (via the NPPF) nor guidance (via the PPG) that allows new housing on Flood Zones 2 and 3 provided it is outweighed by ‘wider sustainability objectives’ such as redevelopment of a brownfield site and putting to beneficial use historic buildings.
- 4.4 Whilst paragraph 102 of the NPPF states that if, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied where appropriate.
- 4.5 However, it is clear that no serious effort has been made to determine if there are more appropriate, alternative sites. We have already demonstrated that there is at least one suitable alternative site within Flood Zone 1 at Grove Farm, capable of accommodating some of allocation being directed towards the Mill Site. We therefore do not consider that the Exception Test should be applied as the applicant has failed on the Sequential Test.
- 4.6 Given that the PPG is clear in that the overall approach in paragraph 100 of the NPPF applies to neighbourhood planning, the Exception Test should only apply if the Sequential Test has been passed. Therefore, the emerging SRNP cannot rely upon the Exception Test when it is clear the Parish has failed to undertake a Sequential Test when allocating the housing sites such as the Mill Site.
- 4.7 The emerging SRNP is therefore contrary to national planning policy and fails to meet the Basic Conditions.

5. **Question 4**

- 5.1 ***“Is the use of SUDS an acceptable mitigation measure for river flooding as suggested by the Plan’s Environment Report? Are there any site-specific mitigation measures to ensure the development remains safe throughout its lifetime?”***
- 5.2 In the case of the Hodson’s Mill planning application, it is noted that formal comments from the Lead Local Flood Authority (i.e. East Sussex County Council [ESCC], dated 27 April 2017 and as contained at **Appendix 2**) recognised that areas of the site (particularly the access to the site being in Flood Zone 3 and being close to the River Rother) will flood and that the ‘proposed permeable pavement will not be able to store surface water runoff from the development since it will be overwhelmed by water from the river. Consequently, overland surface water flows to surrounding areas such as Northbridge Street are likely to increase and increase flood risk’.
- 5.3 We remain unconvinced that SUDS will be sufficient to mitigate against river flooding – as observed in the Hodson’s Mill planning application and that it appears ESCC have yet to provide further comments to confirm that they are willing to remove their current outstanding objection on the Mill Site application due to insufficient information.
- 5.4 The Plan’s Environment Report suggestion is merely a fig leaf to the basic sustainability and safety issues which underpin the need for a properly conducted Sequential Test and cannot override or evade the need for the Parish Council to take the operation of flood risk policy seriously.
- 5.5 The suggestion contained within the Environment Report therefore does not satisfy the current non-compliance with National Policy and consequently, the emerging SRNP fails the Basic Conditions.

6. Question 6

- 6.1 ***“If I were to conclude that the Mill Site allocation did not meet basic conditions in terms of it being sustainable development and the conflict with flood policy (and I stress I have not come to any conclusions on this point), how should I deal with the question of delivering the houses that need to be built. Should I seek to introduce other sites in the plan area and in which case which ones? What are the implications for taking the plan forward?”***
- 6.2 Provided the applicant of the Hodson’s Mill application can provide a satisfactory solution in enabling safe access to and from the site at times of flooding, we have made clear in our objection letter (dated 21 July 2017) that with regard to the 36 no. of new homes in Flood Zones 2 and 3, the Examiner should consider reallocating these to other sequentially preferable sites in the plan area such as the Grove Farm site which is in Flood Zone 1.
- 6.3 The current pending Grove Farm planning applications regarding RR/2017/1642/P and RR/2017/1629/P (proposing a total of 30 no. of new homes) is progressing well and that the majority of statutory consultees have no objections. In particular, both the Environment Agency and the Lead Local Flood Risk Authority (ESCC) have confirmed no objections in relation to flood risk and drainage issues.
- 6.4 We therefore consider that the Examiner should introduce other sites (within Flood Zone 1) and that the Grove Farm site (currently allocated in the adopted development plan as a housing site for at least 30 no. of new homes) would help accommodate a significant proportion of the Mill Site housing on Flood Zones 2 and 3.
- 6.5 Grove Farm is already an allocated site in the current Local Plan and a strategic policy that the Neighbourhood Plan should already have taken cognisance of. Moreover, we have undertaken public consultation prior to submission of the current planning applications and the status of the site is well known and understood in the community. Furthermore, the current proposals are in compliance with broadly all other aspects of the emerging SRNP to include draft policies EC7, EN4, EN6, EN7, EN9, HO5, HO6, HO7, HO9, IN1, IN2, IN3, IN4, IN5, IN7, IN8,
- 6.6 However, on the basis it looks unlikely that the Mill Site can deliver basic requirements such as safe access and Sustainable Urban Drainage, then the site selection process will need to be undertaken afresh. We do not see how the Neighbourhood Plan can proceed in its current form.
- 6.7 Whilst the introduction of new allocated housing sites in the emerging SRNP will likely delay the making of the document as it would require re-consultation and re-examination, we consider this to be the most sensible option. The Parish has a duty to plan for new housing sites that meet the Sequential Test as stipulated in the NPPF and ensure that the safety and wellbeing of future residents is not compromised by unacceptable flood risk issues.

7. **Question 8**

- 7.1 ***“Bearing in mind the difference in ground level between the Vicarage Site and Fair Lane, which is in a Conservation Area, can a satisfactory access be created that will allow full access to the site by the range of vehicles likely to be required to serve a residential development of the scale proposed. Can an illustrative plan be prepared to illustrate an acceptable solution?”***
- 7.2 In the LPA’s formal response to the emerging SRNP, it highlighted the highway constraint of the Vicarage Site as ‘access is considerably sub-standard’ and that ‘the present alignment unsuitable for larger vehicles to navigate’. It is understood that subject to County Highway comments, it is considered by the LPA that the site can only achieve 7 no. of residential dwellings (net gain of 6) and not 10. Turnberry have also formally commented on the emerging SRNP and expressed concerns on the constrained nature of site.
- 7.3 This issue reaffirms the lack of evidence that underpins the site selection process on which the Plan rests. The requirement to produce a proportionate evidence base does not allow the Parish Council to ignore facts or the requirements of national policy.