

# Rye Neighbourhood Plan 2016 - 2028

## Rye Response to the Initial Comments of the Independent Examiner

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### Introduction

1. As you will be aware I have been appointed to carry out the examination of the Rye Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents that I have been sent. I carried out my site visit to the town on Thursday 14<sup>th</sup> February 2019.
2. My initial view is that I should be able to deal with the examination of this Plan by the consideration of the written material but I reserve the right to call for a public hearing, if I consider that it will assist my examination. Based on my preliminary consideration of the plan, there are a number of matters that I would wish to receive further representations or comments, from either or both the Town Council and Rother District Council.

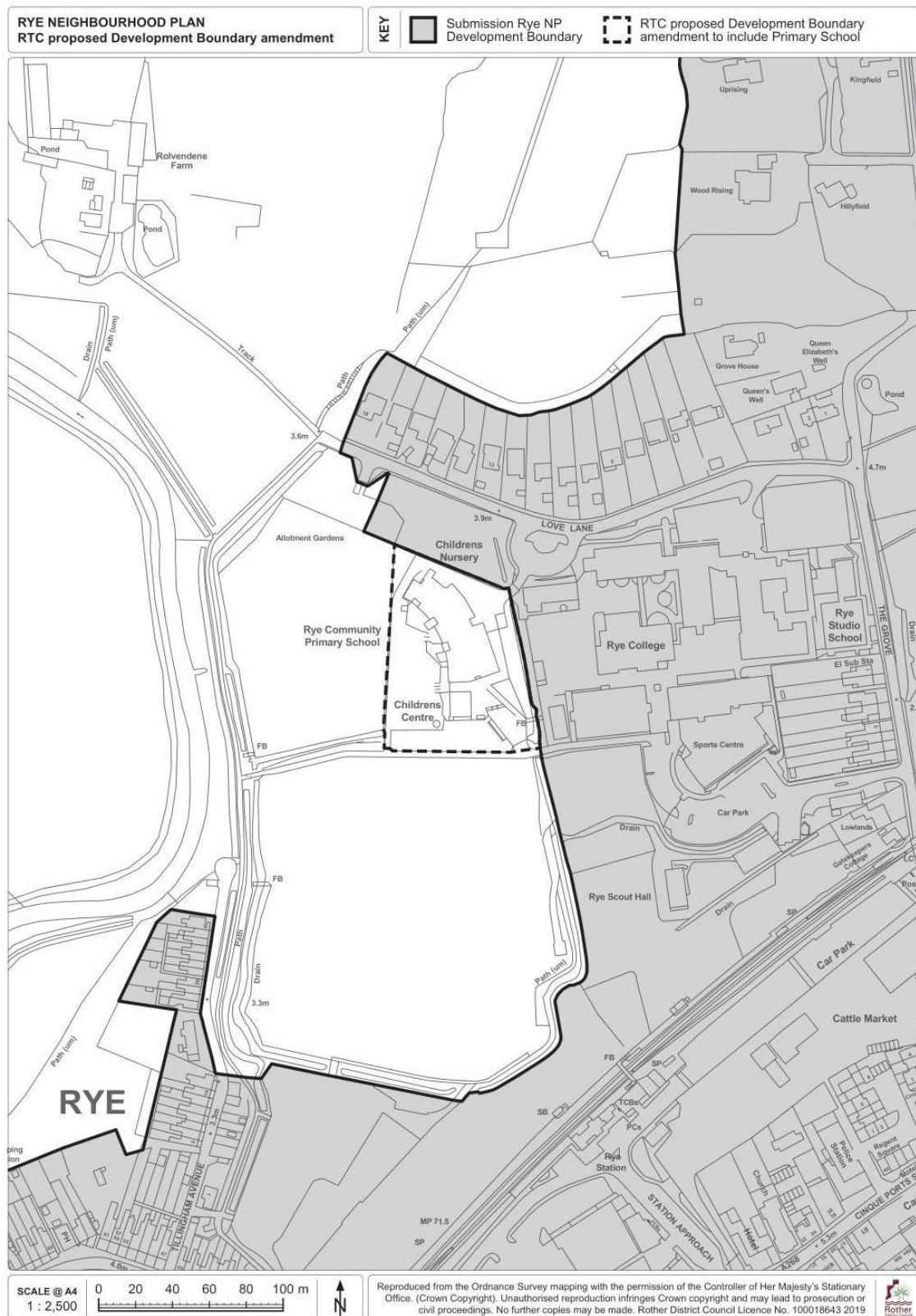
Rye welcomes this approach

### Reg 16 Comments

3. The Town Council will not have had an opportunity to comment on any of the representations received as part of the Regulation 16 Consultation. If the Town Council would wish to put forward suggestions, for amendments to the plan document, having considered the comments, then this is an opportunity to ask me to recommend them. I would be happy to consider any revisions etc., albeit that my remit is restricted to matters of the basic conditions.

Having now assessed the representations from the Reg 16 consultation period, for consideration by the Examiner, Rye lists several small amendments or additions to reflect important comments.

**P15 (Rye)** Minor amendment to the development boundary RNP Figure 2 (Map 1 below) to include the new Primary School.



**Map 1: Proposed Development (Minor) Boundary Change to include Rye Primary School**

**P24:** (Rother DC) Amend the boundary of Rock Channel to be only the Site A allocation on the Figure 5 Housing site allocation map. This should accord with the Site A boundary as shown on Figure 7 and the Policies Map at Appendix B.

**P28:** (Rye) Policy H4:

- ADD after Rock Channel: *“of the four sites shown below, ONLY site A is allocated .....*”
- AMEND Policy H4 d: DELETE existing text; INSERT:

*“Any development will be carried out in a manner that does not prejudice the remainder of the allocation”*

**P28 and P32:** (Rother DC) After Policies H4 and H6, ADD sentence of supporting text to say that

*“Development proposals on this site will be considered in accordance with this policy and policy B1.”*

**P46:** (Rother DC) ADD footnote to Policy F1:

*“The requirement to demonstrate that the sequential test is met does not apply to developments on sites which are allocated in this Plan.”*

(Rother advise that the Sequential Test does not need to be applied for individual developments on sites which have been allocated in the RNP, in line with the planning practice guidance (para: 033 Reference ID: 7-033-20140306))

**P50:** (Rother DC) AMEND the last lines of policy B1 to read:

*“.....; it is shown that there is no prospect of new employment and business occupiers being found or no provision is made for the relocation to more modern facilities, within the locality, including at Rye Harbour.”*

**P64:** (Natural England) ADD the “*High Weald AONB*” to the list of landscape or biodiversity designations in para 4.72 as reflected in Figure 26.

**P72 and P73:** (Rother DC) Policy E2:

- AMEND Part F: *“Gibbet Marsh – Local Green Space adjacent to overflow car park”;*
- AMEND the area of this LGS on the Policies Map and on Figure 28 to show ONLY the undeveloped land to the east and adjacent to the tarmac car park, as a riverside corridor of 0.37 hectares, approximately 230m in length, ranging from 12m to 21m in width along the riverside as Map 2 below.





**Map 2 – Gibbet Marsh Overflow Car Park (LIGHT GREEN) and Green Corridor of Local Green Space (DARK GREEN)**

**P73:** (Rye for clarity) Please see 14 below. AMEND the legend of Figure 28 to show: GREEN as “Local Green Spaces” and BROWN as “Statutory Allotments”.

**P76 and P77:** (Rother DC) ADD to para 4.86:

*“While acknowledging that highway authorities and utilities have certain permitted development rights for works, they are encouraged to have regard to the characteristics set in the following policy E3”.*

Policy E3: DELETE from the opening text: *“....and major repairs by Highways Authorities and utilities “*

## Housing Numbers

4. I note that the housing requirement that the neighbourhood plan is expected to deliver is in the range 107 – 152 dwellings. If all the allocation sites come forward to the extent allowed by the policies, then the maximum yield is 160. Policy H1 refers to five sites, H4 – H8 delivering a specific number of units yet for site H3 it refers to “*up to 20 dwellings*”. However, the policies for the individual sites refer to the yield as being “*up to x dwellings*”. If a lower number of, say larger units, were to be proposed, such a scheme would accord with the policy, yet it could mean that the neighbourhood plan as a whole, would not be delivering the numbers of new homes expected by the Core Strategy. I would be interested in the views of the Town Council and the District Council on whether the figures in the policies should be expressed as “*approximately x dwellings*” or “*at least x dwellings*”?

Rye accepts the comments and agrees the proposed text amendment from “*up to*” to “*approximately X*” for each housing policies H4 to H8.

Rother DC will comment further on housing numbers, to further explain and to underscore the uncertainties of some delivery. **However Rother DC has recorded that it is satisfied that the minimum housing target will be met.**

## Ecological Impact Assessments

5. All the allocation policies refer to the fact that development applications may need to be informed by an Ecological Impact Assessment. However, the Rother Local Validation Checklist only requires these statements for development proposed on land designated as a SINC, SSSI, SPA, SAC, LNR, SPA, Ramsar site or a Biodiversity Action Plan Habitat or outside the urban area. Is there a particular requirement based on the Rye sites that would require a different threshold than the rest of Rother district?

The draft policy reflects advice from Natural England during the Reg 14 period, but Rye is content to remove the text from the allocation policies and include suitable text in para 4.5, as below.

Para 4.5: ADD:

*“Where appropriate and subject to advice from Natural England relevant development should be informed by an Ecological Impact Assessment (EclA), in line with BS42020:2013 and CIEEM guidance.”*

#### **Winchelsea Road (East Side) (Policy H5)**

6. I was surprised to see that for a linear waterfront site of this size, the Rye neighbourhood plan is proposing only 10 dwellings. It seems there is scope for a higher density scheme on this waterfront. Is there a particular reason why the site is only expected to deliver 10 units, how was that figure arrived at, and is the site likely to be viable with this level of development? I understand that the site is in different ownerships. Is there an expectation that the District Council will use CPO powers to ensure the site is developed on a comprehensive basis? Who is expected to be the body that will prepare the masterplan? Rather than requiring the development to be comprehensively undertaken, would it not be a more deliverable option to require the development to be carried out in a manner that does not prejudice the development of the remainder of the allocation site? Is the District Council able to provide me with information as to ownerships and whether there is a possibility of a design guidance/ development brief being prepared, that could be used to provide the guidance sought by the Town Council?

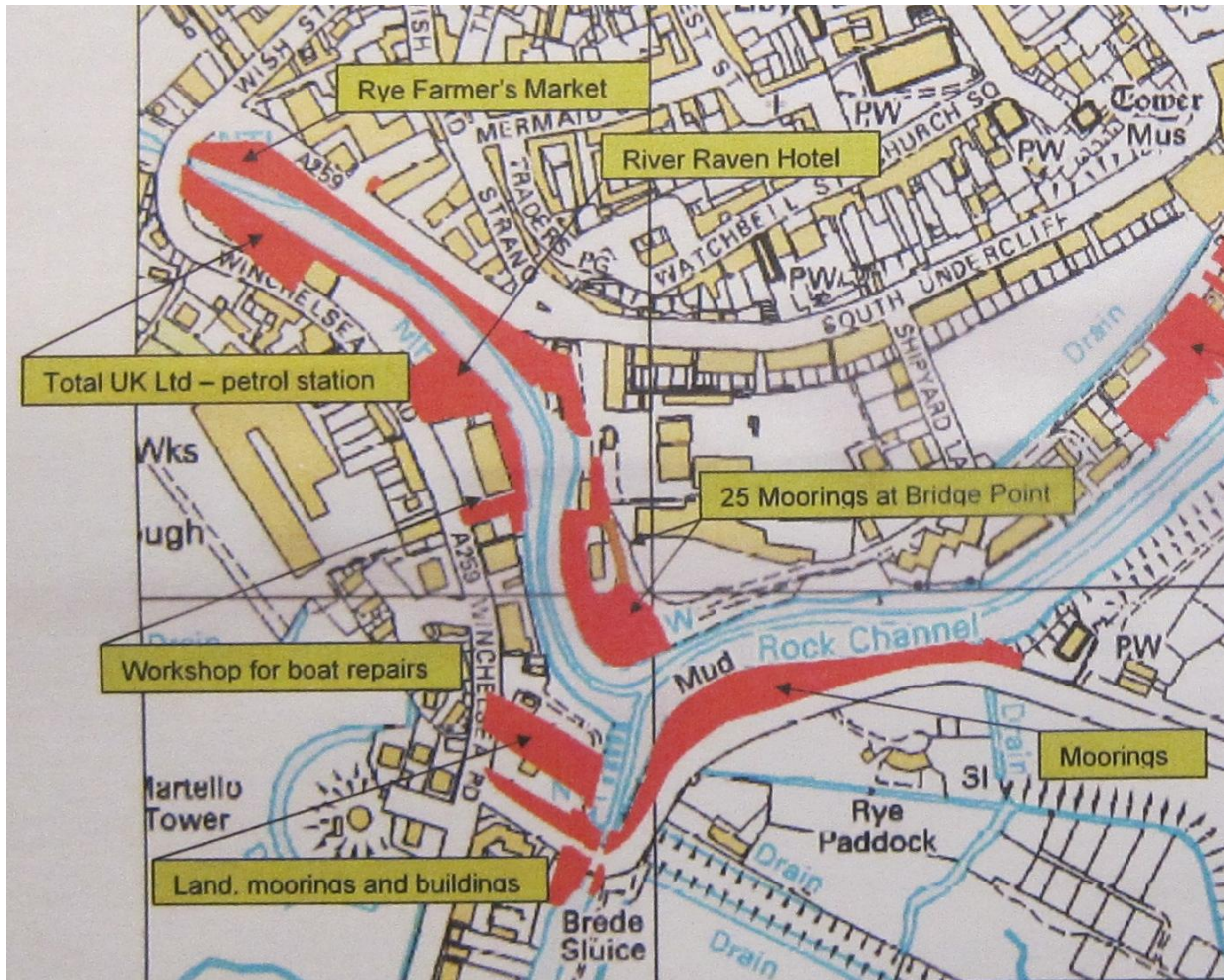
There has been significant consideration of this broad location during the neighbourhood planning period, as reflected in site assessment document. The map on P52 of the Site Assessment (RNP Support 2) indicates the varied land ownership (Map 4), with differing aspirations for development, which includes four parcels by the Environment Agency (EA) (RED on Map 3).

Rye seeks a comprehensive development as a desirable outcome, but having discussed again with Rother DC Planning Officers, it is agreed that in Policy H5:

~~DELETE: “Development of the location will need to be undertaken on a comprehensive basis and according to an overall master plan”~~

*INSERT: “Development should be carried out in a manner that does not prejudice the remainder of the allocation”*

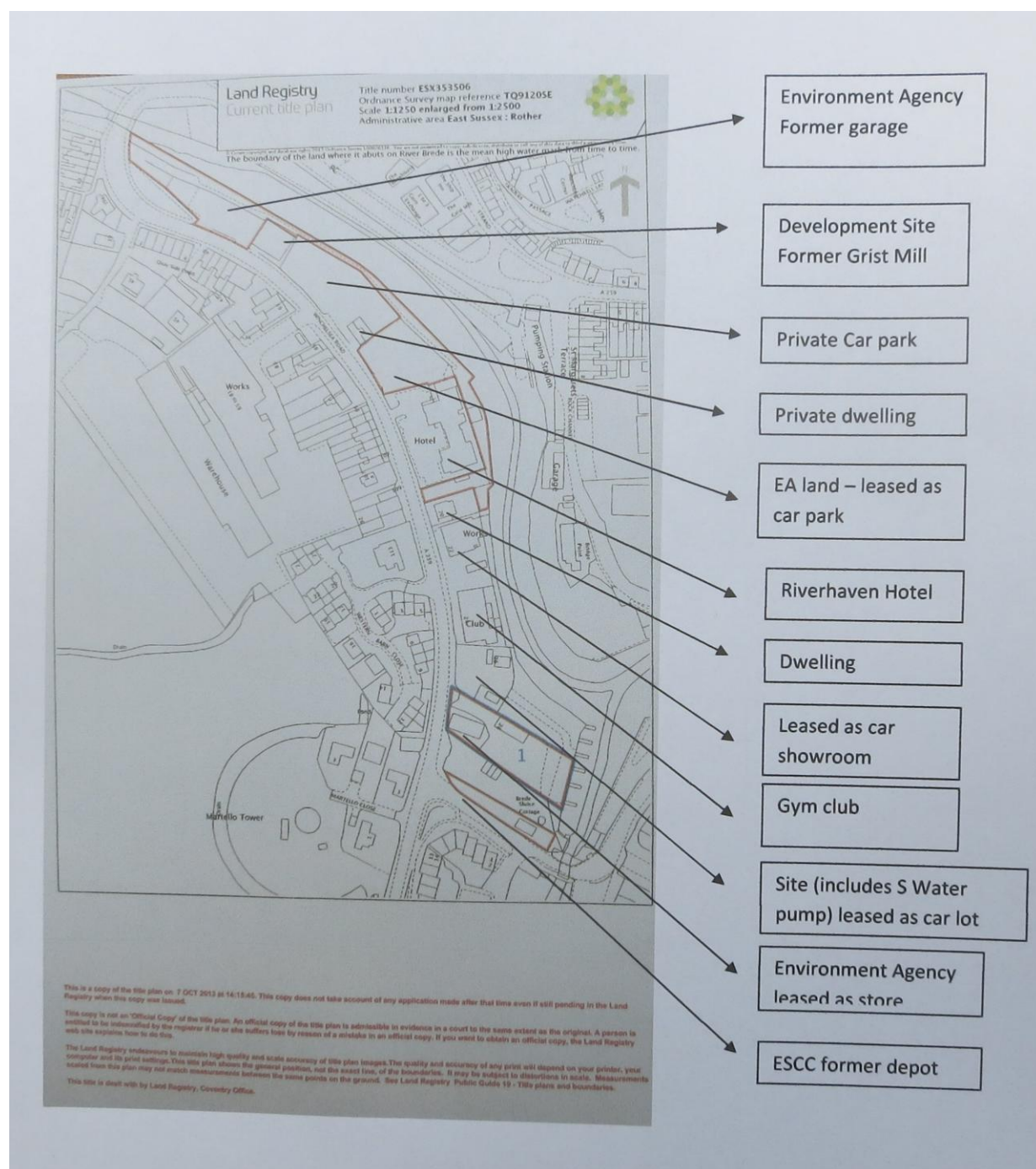




**Map 3 – Environment Agency Land in Red (For illustration only - 2005)**

The Agency has indicated that it does not normally dispose of land (Map 3 – general indication of holdings only) because any return goes back to the Treasury. It prefers to lease by negotiation, which has acted as a deterrent for development.

At the northern end of the location the former Total Garage has been subject to decontamination which only mitigates for commercial use.



**Map 4: Winchelsea Road East (mid 2016) - Varied Land Ownership**

Factors affecting the scale of development include safe access onto the A259, the proximity of flood defences to the east (and therefore the need to preserve access to them); continuity of existing long term businesses; reluctance of some owners to change or develop; valuable car parking (a premium in Rye) and the desire for design to chime with the Conservation Area opposite, by restricting building height (to avoid domination); the avoidance of “solid faces” with “permeability” to provide glimpses through to the Citadel and of course to mitigate flood risks. Therefore the allocation of only 10 units reflects detailed discussion with landowners and Rother DC, which commented during the Reg 16 process that **“subject to the comments on individual sites – H4; H6 and H8 - the scale and location of housing allocations are supported.”**



## The Exception Test

7. I have read carefully the Sequential and Exception Flood Risk Test Report. I note that the authors point to a number of developments which have passed the exception test. I would be pleased to hear from the District Council the types of measures that have satisfied it, that these sites are safe for the lifetime of the development including access routes. Are there specific arrangements proposed that can reassure me that proper measures can be put in place in times of extreme flood or flood defences failing?

Rye comments that there are specific resilience and preparedness arrangements for times when the flood defences might fail. These are included by the Sussex Resilience Forum in plans such as the Rye Bay Flood Plan and contingency plans by the Local resilience group (Rye Emergency Action Community Team). Close liaison is maintained by the latter with all the professional agencies responsible for resilience and response. The Environment Agency maintains at its Scots Float Depot on the eastern edge of Rye holdings of emergency equipment, include HV pumps, sandbags, temporary flood defence structures and other plant.

Rye also notes that in their response to a recent development proposal (RR/2017/1778/P) for the Lower School Site (H8), the Environment Agency had no objections on the basis that the developer had considered both flood risk and flood defence measures, including arrangements for an emergency evacuation plan.

8. Please note that the Technical Note referred to as the footnote 34 in the last paragraph of Policy F1 has now been withdrawn and the advice is now within the Planning Practice Guidance.

Rye agrees that this should be amended.

## Former Freda Gardham School

9. Could the Town Council clarify what it is expected in terms of the access to the residential site. I note that it is requiring a separate access from the petrol station, which is shown in blue in Figure 19. Is it expected that the access to the housing development is via the single width access between the pair of semi-detached houses to the west which is cross hatched on the plan and if that is the intention, would the District Council comment as to whether that would be acceptable to the Highway Authority.

Highways England commented on access to other development sites but not specifically on H7. As development here will be subject to additional flood risk mitigation in the form of the Eastern Rother Tidal Walls Scheme (being planned over the next 5 years) and subject to any proposal for development of a fuel station and food outlet (no interest at present) there would be time for any developer of H7 to

negotiate and purchase additional access/egress to/from the A259. The allocation is therefore: Not subject to a Highways England objection and represents conditional policy.

10. I see that the policy requires a retail impact assessment for a development which can be no more than 500sq m, but the District Council's Local Validation Checklist only requires the submission of a Retail Impact Assessment on schemes of over 500 sq.m. Is there a specific reason regarding the impact of a scheme of this size in Rye?

Rye is content for the requirement for this Impact Assessment to be removed.

### Former Lower School Site

11. Can I be provided with any information as to the ecological importance of the woodland adjacent to the railway, which is described as a Natural England Priority Woodland?

Natural England commented on H8 (Lower School Site) "we welcome the commitment under Policy H8 to avoid damage to ancient woodland. For accuracy, this (Priority Habitat) is not Natural England's designation but originates from a list of such habitats, as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006. Therefore the text should be amended to reflect this '*...avoid damage to the deciduous woodland Priority Habitat;*'

Rother DC has a Tree Preservation Order (TPO 279 dated 21 Aug 2007) on a belt of trees to the north of the railway line (please see Map 5 below). This is one of the factors, with others such as design, parking and the need to mitigate the flood risk, that affects the set maximum of 50 dwellings allocated to this site.



Map 5: Lower School Site (RED boundary) and TPO (in GREEN)

## Rock Channel Sites C&D

12. Is it expected that any windfall proposals affecting these sites, as set out in para 4.10, will have to satisfy all the requirements set out in Policy B1 ?

Rye expects such windfall development to satisfy the policy in B1.

## Strategic Gap

13. Policy E1 refers to a strategic gap being maintained between Rock Channel and Rye Harbour. I would be grateful if the extent of that gap could be shown on a plan so that decision makers can know when and where the policy is applicable?

Rye included a map in the Reg 14 version of the Plan, but subsequently Rother proposed to increase the gap (please see the Map 6 below) in its Development and Sites Allocations (DaSA) Local Plan, that has yet to be adopted, therefore, to avoid potential conflict, we dropped the plan from the Reg 16 version. Rye supports either the reinstatement of a map or stronger links to the DaSA, in the form of a footnote to Policy E1, or both.



**Map 6: Rye Strategic Gap (hatched) showing DaSA proposed extensions**

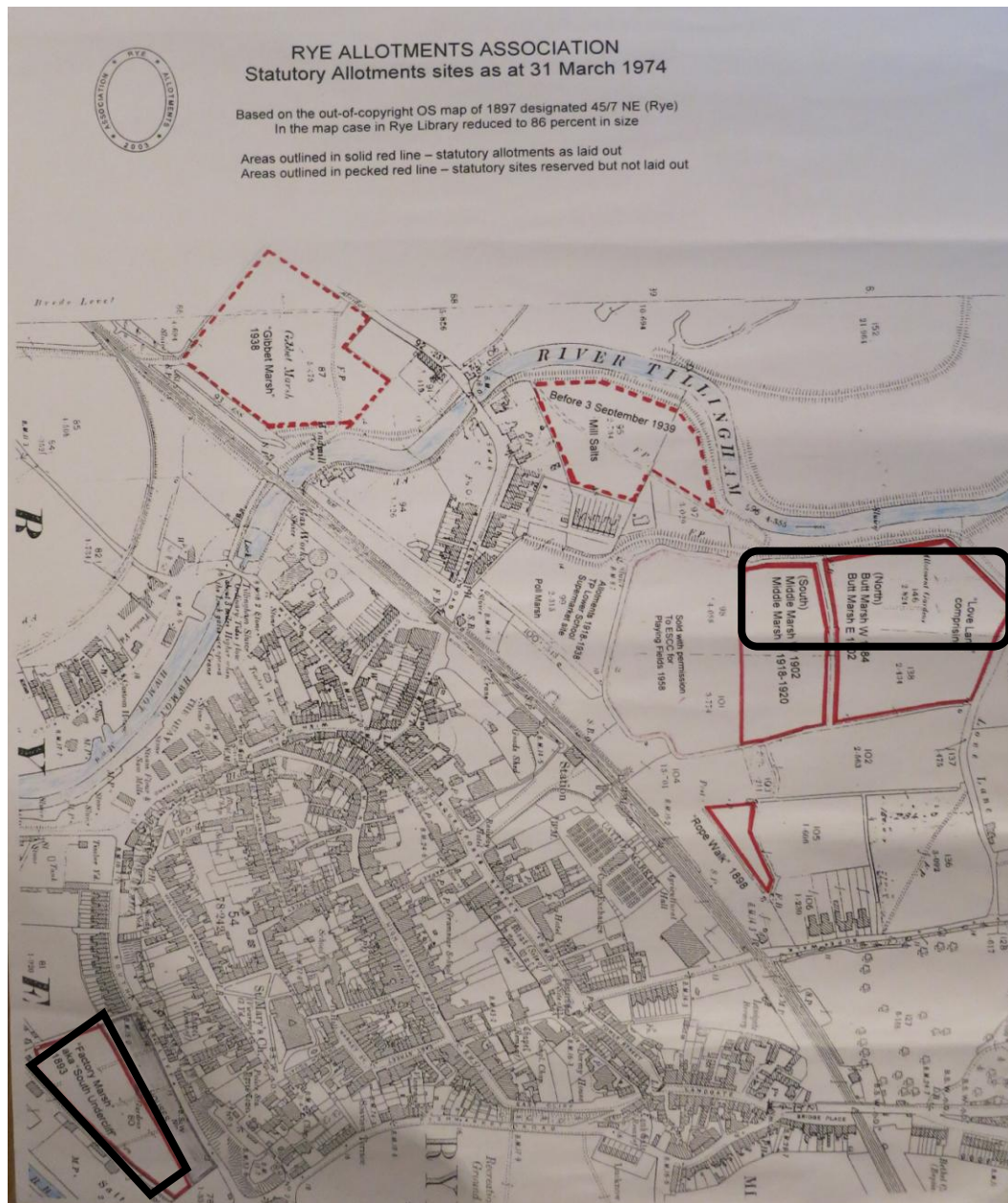
## Green Infrastructure and Local Green Space

14. Is it the intention that the two allotment sites are designated as Local Green Space or is there some other policy protection covering them?



Rye proposed this at Reg 14 but on advice it dropped the proposal in the Reg 16 version. Rye has now agreed with Rother DC that the two remaining allotment sites and associated community garden - at South Undercliff and Love Lane) are statutory (see Map 7 below) - and therefore enjoy sufficient protection. It is proposed to leave as described and amend the legend to Figure 28 to reflect:

- GREEN: Local Green Space
- BROWN: Statutory Allotments



Map 7: Rye Statutory Allotments (RED -1974) – Remaining in BLACK

## Heritage and Urban Design

15. Is it the intention that the scope of this policy be limited to the Rye Conservation Area?

This is Rye's intention.

## Energy Statements

16. Can the District Council advise me whether it is the intention that Energy Statements be added to the Local Validation Checklist?

Rother DC will comment separately.

ATBK PhD For RNPSG

4 Mar 2019