

Peasmarsh Neighbourhood Development Plan 2021-2039

Initial Comments of the Independent Examiner

Prepared by

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Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Peasmarsh Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the parish on the afternoon of Friday 19th May 2023. I spent over two hours in the village and I was also able to explore some of the countryside in the parish.
2. At this stage, I cannot confirm whether the examination of this Plan will proceed by the consideration of the written material only or whether I will need to call for a public hearing. I have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but my decision will depend to a large extent on the responses I receive to this note. Once I receive responses from both the Parish Council and Rother District Council, I will confirm my decision as to whether a hearing will be required.
3. Set out in the following paragraphs are a number of questions or requests for clarification or comments, which are primarily directed to the Parish Council or in some cases to Rother District Council. Such requests are quite normal during the examination process.

Regulation 16 Consultation Responses

4. I would like to offer the Parish Council the opportunity to respond to the comments made during Regulation 16 consultation. It is not necessary for a response to be given to each comment, just those that the Parish Council wishes to respond to. I would however be particularly interested in the responses to the comments made on behalf of Lord and Lady Devonport in relation to the two sites at Tanyard Field and Tanhouse. I am particularly interested in whether there could be a technical solution to any flooding issues on the two sites.

Strategic Policies

5. With regard to the adopted Core Strategy and the Development and Site Allocations Local Plan, can Rother District Council identify which of its policies, in either document, are to be considered strategic policies for the purpose of the basic conditions test?

Policy L1: Protection of Locally Significant Views

6. The photos in Appendix 4 alongside the descriptions are really helpful. However, the scale of the map in Figure 3.9 and Figure 2 in the Appendix is too small for a decision maker to be able to pin point, with confidence, the position of the viewpoint. Would it be possible to expand the map to A4 size or supplement the map with detailed Ordnance Survey based maps showing the actual position of each viewpoint, at a larger scale?
7. I note that the policy wording refers to development proposals “within the shaded arc” but I envisage that the intention is that the views extend beyond

the edge of the arcs, to the wider landscape. Will it be possible to, rather than shade in the arc, to show a cone of visibility which indicates the overall direction of the viewpoint?

Policy L2: Protection of Habitats

8. Can the Parish Council comment as to what extent the policy is consistent with the Secretary of State's approach set out in Paragraph 180a), which is advocating a cascade approach, in terms of addressing harm? Also, how would work this policy work alongside Policy L4? Would it be possible for habitat protection and enhancement to be covered by Policy L4? Does Rother have a view on this?

Policy L3: Protection of Trees and Woodlands

9. I feel that the scale of Map 3.10 is too small to be able, with confidence, to identify whether a site is identified as an ancient woodland. Would it be possible to have a larger scale plan, perhaps showing just ancient woodlands within the parish? It may also be clearer if Figure 3.10 only showed the Natural England's designations of Priority Habitat and Habitat Networks, with the ancient woodland identified separately.

Policy L4: Protection of Biodiversity

10. Since the plan was written, there is now greater clarity as to how the statutory Biodiversity Net Gain System is going to work and I would ask for both the Parish Council's and Rother's views as to whether there is still a need for policy covering biodiversity net gain. For example, would this policy allow the purchase of off-site biodiversity credits or does any off site mitigation have to be provided within the parish?
11. I note that the District Council is working on an evidence base to justify a minimum 20% increase and I would ask the Parish Council what is the evidence that justifies the choice of 15%. It is a Secretary of State expectation that neighbourhood plan policy requirement should be supported by evidence to justify the added requirement in this particular parish?
12. Can Rother clarify whether it's understanding as to whether schemes that fall within the permitted development classes, will be expected to deliver net biodiversity gain?
13. Can Rother also confirm whether it is intended to require the submission of a biodiversity net gain report as part of an applications submission via the Local Validation Checklist or will it be required by a condition, post approval?
14. Can the Parish Council advise me what land it has available to act as biodiversity net gain hosts?

Policy L5: Protection of Local Green Space

15. Is it possible to have clearer Ordnance Survey Maps showing the location and boundaries of the proposed local green spaces?

Policy L6: Retain and Improve Public Access

16. The policy refers to green infrastructure enhancements within the parish. I noted the definition of green infrastructure in the glossary. Is the policy looking for all

developments to have to contribute, even if it is through financial contributions to offsite works or just direct provision for example, where there is a possible new route that can be delivered as part of the scheme layout? Perhaps the answer lies in the criteria “where appropriate” and possibly more guidance can be given to decision-makers as to what is being sought, either through on-site provision or offsite contributions and from what types of development?

17. Following up on the point made by the District Council in its Reg 16 comments, in respect of this policy, does the Parish Council want to take the opportunity of highlighting any particular routes?

Policy L7: Sustainable Public Transport

18. A neighbourhood plan policy is required in the legislation to be a policy for the use and development of land, which can be used to determine a planning application. I attach the relevant parts of the Planning Practice Guidance and as the Secretary of States explains these can, quite appropriately, be included within a neighbourhood plan, but not as part of the development plan .

“A neighbourhood plan should support the delivery of strategic policies set out in the local plan or spatial development strategy and should shape and direct development that is outside of those strategic policies (as outlined in [paragraph 13](#) of the revised National Planning Policy Framework). Within this broad context, the specific planning topics that a neighbourhood plan covers is for the local community to determine.

A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#)).

Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan.”

19. I believe that the aspiration, as set out in the policy, can be included within Section 10 of the neighbourhood plan, as a Community Aspiration. There are a number of other policies which I believe come under this category, which will be a repeated theme in my comments.

Policy I1: Improving Road safety and Traffic Impact

20. Again, this falls in the same category as the above policy, as it relates to actions to be taken forward which go beyond the consideration of a planning application.

Policy I2: Sewage System Improvement

21. I appreciate that this is a key local interest and it is clear that there has been a history of discussions with Southern water . On the question of the independent

capacity check by a qualified professional, I find it difficult to understand how an independent person, who is separate to Southern Water would have access to greater information as to be able to make an assessment of a planning application, than the statutory undertaker. Who does the Parish Council consider would appoint that independent person, would it be the District Council as decision maker or the applicant and should that be on the basis of the individual proposal or the assessment of the total amount of development that is expected to take place in the parish through the plan period? Is that a matter that should be part of the Infrastructure Delivery Plan for the next local plan?

22. I have to say that I find the plan's position with regard to new development and drainage difficult to reconcile. Whilst it is pointing to existing problems which it states "must be resolved before further development is undertaken" at the same time, the plan is promoting development on sites, which it knows are beyond the existing sewer network. Is it the Parish Council's intentions that these sites should not be connected to the main drainage or would it be expected to be served by private sewage treatment facilities, and how realistic is that in this part of East Sussex? Or is the intention that these developments should only be implemented once the developer (or Southern Water) funds and delivers the drainage connections, especially bearing in mind the maximum capacity of any sites is 10 units, how viable is that? That expectation then places the deliverability of these sites into question. Does the District Council have any comments as to how these issues have been addressed in other parts of the district?
23. Following on from that question, is it the Parish Council's position that irrespective of making the sewer connection, development should nevertheless not be able to proceed until all the inadequacies of Peasmarsh's and Iden's drainage infrastructure are rectified, so not to exacerbate flooding events and overflows? To what extent is this a Peasmarsh issue linked to development and the drainage arrangements in the village, compared to the wider national issue of inadequate infrastructure for dealing with sewage discharges which has recently received much publicity in the national press?
24. Can I ask Rother District Council to advise whether issues of the capacity of the sewer system was identified as an issue when the Pippin site was identified in the Development and Site Allocation Local Plan for 45 units? The only reference to drainage matters in the policy relates to the use of SUDS.
25. I have to say that the advocacy part of the policy would again come under the Community Aspirations point made previously.

Policy I3: Surface Water Drainage

26. Does the Parish Council consider that changes of use and other changes that do not affect run off should be covered by the policy? It may be that the application of the policy to all development should be clarified.
27. Can Rother confirm whether the requirement to submit a SUDS statement is included in the Local Validation Checklist, which sets out the documents which are required to be submitted with a planning application and which applies across the district .

Policy I4: Power Supply

28. Again, this policy appears to be another Community Aspiration rather than a land use planning policy capable of being used to determine a planning application.

Policy I5: Telecommunications

29. Similarly, the first paragraph of the policy seems to me to fall under the heading of being a Community Aspiration.

Policy I6: Developer Obligations

30. Can the Parish Council clarify what utilities are an applicant required to consult prior to the submission of the planning application, is it only drainage or would it include electricity, gas, water supply or broadband?

Policy I7: Access to High Quality Secondary Education

31. Yet again, this policy appears to fall under the category of being a Community Aspiration.

Policy E1: New Business Space Development

32. I note that this policy only supports a limited range of business uses within Use Class E. Can the Parish Council explain why a local gym or sports hall or local surgery or a nursery would not be appropriately located in the parish. Is it looking for planning conditions to be imposed to restrict otherwise permitted changes within the use class, which would ordinarily not constitute development?
33. Similarly, would say an agricultural machinery workshop, which would fall within Use Class B2 or storage uses which fall within Use Class B8, not be appropriate in some parts of the parish?

Policy E2: Adaption of Existing Buildings for WFH

34. Is the remit of the policy, that it only relates to premises was part of a residential property or within that residential curtilage?
35. Does the Parish Council wish to take up the suggestion of the District Council and include a specific policy component dealing with outbuildings more than 20m from a dwelling?
36. Is the intention of the policy to allow non-residents to also to be working from the premises – I ask the question in view of the policy referring to activities being “predominantly” undertaken by occupants?
37. Can Rother set out what its approach is, in terms of working from home being classed as activity incidental to the enjoyment of a dwelling and not requiring planning permission? Does it for example see home offices as outbuildings as covered by Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)?

Policy E3: Rural Building Conversion to Business Use

38. Paragraph 84 of the NPPF states the plans should enable the sustainable growth and expansion of all types of business in rural areas, including through “well designed new buildings”. Should the scope of this policy also include “well designed new buildings”?

Policy E4: Promotion of Sustainable Tourism

39. Can the Parish Council clarify what is meant by “tourism facilities which respond to identify local needs”. Is it not the case that tourist facilities are essentially responding to the needs of people, who do not live within the local area but are visitors?

Policy H1: Housing Mix

40. Would the Parish Council comment on the District Council’s point , that whilst justified by evidence in the Housing Needs Assessment, the percentage quoted in terms of housing mix has not been viability tested and is that something that could be carried out expeditiously in order to justify the neighbourhood plan departure from local plan policy?

Policy H2: Rural Affordable Housing Sites

41. It appears that this is a policy that requires compliance with an existing policy that already applies to the parish, as well as other policies set out in the NPPF and this neighbourhood plan. Paragraph 16f of the NPPF states that “plans should serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this framework, where relevant)”

Policy S1: Development Size

42. I appreciate that this policy comes with local support, but it could be argued that the evidence of housing need is for smaller rather than larger properties and if the number of units is arbitrarily limited, irrespective to the size of the site, it could lead to a tendency for developers to build 10 larger units rather than 10 smaller units, which evidence indicates there is a need for?
43. Has the Parish Council taken any advice as to whether restricting the amount of development will affect the development viability of the sites being promoted, through having to deal with such issues as the delivery of the sewer extensions, provision of pedestrian crossings and traffic light junctions. Does the cap also artificially limit the amount of affordable housing that can be delivered on sites?
44. What objective criteria would a decision maker use to decide whether “large developments are in the interest of parish stakeholders”. Can the plan be explicit as to what it is recognising as stakeholders, is it only residents or could it include landowners’ interest, employers service providers etc who could also be seen as stakeholders in the village?
45. By restricting the capacity of sites to know more than 10, could that militate against making effective use of development land, as the Secretary of State is promoting in chapter 11 of the NPPF?
46. Has the District Council any evidence to support its claim that it is only the LPA or PINS that can be classed as “decision-makers” especially in the context of plan making, rather than development management? For example, in the context of making decisions as to land allocations. Following Rother’s logic, a large site could be allocated by the Parish Council in a neighbourhood plan, but a decision maker at application stage, could nevertheless conclude that it will constitute “major” development and therefore not been accordance with the advice in the NPPF, regarding major development in the AONB.

Policy S2: Allocated Sites

47. I would request that the Parish Council provides individual maps on an OS base showing the detailed boundary of each of the site allocations.
48. I would be interested in the Parish Council's explanation as to how it arrived at the amount of new housing that the neighbourhood plan is proposing to allocate sites for. It seems that the village is likely to face 45 units on the Pippins site +32 dwellings on the neighbourhood plan allocation sites + 20 windfall sites. This is close to 100 units which appears to be beyond the figure that the parish is required to meet to satisfy the requirements of the Core Strategy. Has the figure essentially the sum of the sites that have been put forward or has the plan decided to allocate these additional sites on top of existing commitments, to meet a particular housing number?
49. I am also interested in why it has selected some sites which are remote from village facilities, such as the recreation ground, the Village Hall and the Primary School. I appreciate that the plan does recognise the issues of some sites being remote from the heart of the village, as well as the fact that the sites are located beyond the reach of the existing sewer system. It could have chosen to have rejected them as unsustainable locations. I have to have regard to Policy RA1 - Villages in the Core Strategy, which suggests that new development should be sited in close proximity to key facilities and locations accessible by a range of transport options.
50. Is it the intention that the Oaklands and the Old Football Ground sites should effectively have the status of being "reserved sites" if other sites do not come forward, but how can they be seen as deliverable options until such time as their access arrangements are clarified? If their access arrangements could be resolved are these sites better located than some of the sites in more peripheral locations? What would be the trigger for their release or could they be supported as well as the allocation sites?
51. The Flackley Ash and Woodside site are both allocated for solely affordable housing, despite the distance from the local school. Can the Parish Council confirm that the offer of these sites for development by the landowners recognises that they are for affordable housing only? Also, if any of the sites are being seen as potential sites attractive for local residents to downsize to, is it likely that persons downsizing from larger properties are likely to be eligible to occupy affordable homes? Or is it envisaged that the housing would be specialist elderly person accommodation, in which case is a maximum of seven units a viable proposition. The Housing Needs Assessment recognises that allocations to persons with a local connection can only be achieved through rural exception site policy. If the sites are being allocated, can they be treated as a rural exception sites?
52. In terms of the Cornerway site, on my visit, I noted that the land is currently use for parking for residents in the area. Does the Parish Council have any suggestions as to where the displaced parking should be relocated? The plan recognises the difficulty with access and also the fact that the site lies 110 m beyond the end of the foul water sewer. Is it likely to be viable for a scheme of 7 units to fund the extension of the sewer up School Hill? Also, the document recognises that this site was not assessed by AECOM and suggests that an

independent professional assessment should be carried out. However, if the site is allocated, following this examination would it not be too late for that assessment to then be carried out, post examination? Could AECOM be asked to urgently review the suitability of the site as a one-off commission?

53. Finally, how is the restriction to no more than three houses taking place on allocated sites, consistent with Policy S1 which will supports development of up to 10 dwellings?

Policy S3: Development Boundary

54. Does the Parish Council see the difference between a development boundary and a settlement boundary or are they the same?
55. In view of the plan's qualified support for the two potential sites, PEA01 and PMO3, is there scope for extending the development boundary to include these sites, which could be developed if access can be resolved and is there a case for including within the settlement area The Cock Inn and it's adjacent caravan site. Equally, also should the boundary recognise the developed nature of the Jempson site? I would be interested in both the Parish Council's and Rother's view on that matter.
56. In terms of the wording of the policy, I assume upon making the neighbourhood plan the District Council would be approving the development boundary and it would not be necessary to be subject to separate approval. Similarly I presume that any subsequent change to the development boundary, promoted by the District Council, say through a new local plan, would involve consultation with the Parish Council.

Policy D3: New Homes

57. Can the Parish Council clarify how the decision maker would assess whether a planning application "will meet the changing needs of residents"? Is this a matter that is actually covered by Building Regulations (Part M) or is it referring to Lifetime Homes Standards?

Policy D4: Energy Efficiency and Sustainability

58. Can the Parish Council comment on how this policy complies with the Secretary of State's expectations as set out in a Written Ministerial Statement to the House of Commons dated 25 March 2015, which states the neighbourhood plan should not set "any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings"?

Concluding Remarks

59. I am sending this note direct to Peasmarsh Parish Council, as well as Rother District Council and I would request that the two parties' response to my questions should be sent to me by 5 pm on **16th June 2023** and also copied to the other party.
60. I will then confirm whether or not a public hearing will be required where I will identify parties to be invited and what topics I will be wanting to explore in greater detail.
61. I would also request that copies of this note and the respective responses

are placed on the Neighbourhood Plan's and also Rother District Council's website.

John Slater BA (Hons), DMS, MRTPI, FRGS.

Independent Examiner to the Peasmarsh Neighbourhood Plan

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