

# Peasmarsh Parish Neighbourhood Plan 2021-2028

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## Submission Version

A Report to Rother District Council on the Examination of the Peasmarsh  
Parish Neighbourhood Plan

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## Contents

	Page
Executive Summary	3
Introduction	4
The Examiner's Role	4
The Examination Process	6
The Consultation Process	8
Regulation 16 Consultation	8
The Basic Conditions	9
Compliance with the Development Plan	9
Compliance with European and Human Rights Legislation	11
The Neighbourhood Plan: An Overview	12
The Neighbourhood Plan Policies	16
The Referendum Area	33
Summary	34

## Executive Summary

My examination has concluded that the Peasmarch Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- The plan as recommended to be modified should be screened under the Habitat Regulations.
- The end date of the neighbourhood plan should be brought forward to 2028.
- Amending the habitat protection policy to refer to “wildlife rich habitats”.
- Allowing the removal of ancient trees and woodland in exceptional circumstances.
- Deleting the policy on biodiversity net gain.
- Expanding the scope of the green infrastructure policy to allow offsite improvements and the funding of offsite improvements.
- Deleting the policy on public transport.
- Deleting the policy on road safety and traffic impacts.
- Removing the reference to third-party independent checks on the sewer system.
- Deleting the policy on surface water drainage.
- Deleting the policy on power supply.
- Removing reference to the parish lobbying for improvements on telecommunications infrastructure.
- Expanding the scope of the developer contribution policy.
- Deleting the policy on access to secondary education.
- Expanding the business policy to allow Use Class E uses and Use Class B2 and B8 uses in limited circumstances.
- Clarifying the scope of the working from home policy.
- Allowing the construction of well-designed new commercial buildings in the countryside.
- Tourism development no longer needs to meet a local need.
- Deleting the requirement for all new housing to be affordable homes.
- Deleting the policy limiting residential development to a maximum of 10 units.
- Deleting the proposed housing allocations at Flackley Ash, Woodside and Cornerways.
- Amending the energy efficiency policy from setting a *requirement* to one that *supports* development that incorporates sustainability elements.

The referendum area does not need to be extended beyond the Plan area.

## **Introduction**

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities the opportunity to create the policies that will shape the places where they live and work. A neighbourhood plan does provide the community with the ability to allocate land for particular purposes and to prepare the policies that will be used in the determination of planning applications in its area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the policies in the Rother Local Plan Core Strategy, adopted in September 2014 and the Development and Site Allocations Local Plan, adopted in December 2019. Decision makers are required to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Peasmarsh Parish Council. A Steering Group was appointed to undertake the Plan's preparations.
3. This report is the outcome of my examination of the Submission Version of the Peasmarsh Neighbourhood Plan. My report will make recommendations, based on my findings, on whether the Plan should go forward to a referendum. If the Plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by Rother District Council.

## **The Examiner's Role**

4. I was appointed by Rother District Council in May 2023, with the agreement of Peasmarsh Parish Council, to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 45 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Rother District Council and Peasmarsh Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
  - That the Plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the Plan should proceed to referendum, if modified.
  - That the Plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Peasmarsch Neighbourhood Plan area.
8. In examining the Plan, the Independent Examiner is expected to address the following questions:
  - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
  - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
  - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and been developed and submitted by a qualifying body?
9. I am able to confirm that, if the plan is modified in accordance with my recommendations, the Plan will only relate to the development and use of land, covering the area designated by Rother District Council, for the Peasmarsch Neighbourhood Plan, on 25<sup>th</sup> March 2021.
10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2021 up to 2039. I will be making recommendations in terms of the Plan’s end date which I will address in the Plan Overview section of this report.
11. I can confirm that the Plan does not contain policies dealing with any “excluded development”.
12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
13. I am satisfied that Peasmarsch Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

## The Examination Process

14. Once I had reviewed the submitted documents, my first task was to conduct a site visit to Peasmarsh. This was carried out on Friday 19<sup>th</sup> May 2023.
15. I entered the village of Peasmarsh from the west along the A268. I initially orientated myself by driving through the village until I reached Rye Foreign. I then drove back into the village, noting the location of the proposed housing allocations, plus the two sites which had been indicated as having potential for development in the neighbourhood plan as well as those where representations have been made at Regulation 16 stage. I also took note of the different character areas which are described in the document, Peasmarsh Villagescape and Design Codes. I visited each of the local green spaces.
16. I made a visit to the Jempson's campus, although I found that the store itself was closed. During my visit I explored the countryside area of the parish, enjoying the quality of the landscape, which is designated an AONB including the meadows alongside the River Rother.
17. Upon my return from Peasmarsh, I prepared the document entitled Initial Comments of the Independent Examiner, dated 26<sup>th</sup> May 2023, which asked questions of both the Parish Council as well as Rother District Council. At that stage I indicated that I had not yet decided whether a public hearing would be required. I received a response from Rother District Council on 22<sup>nd</sup> June 2023 and from Peasmarsh Steering Group, on 23<sup>rd</sup> June 2023. On 27<sup>th</sup> June I received a separate letter from the Chairman of the Parish Council stating that the Parish Council may be prepared to consider a higher number of units on a site from the 10 dwellings quoted in Policy S1.
18. Having reflected on the two responses, I came to the conclusion that a public hearing would be required. The normal presumption is that examinations will only consider written evidence. However, the examiner can ask for a hearing to receive oral evidence on matters he/she wishes to explore further, or where a person needs to have a fair chance to put a case.
19. That decision was transmitted to Rother planners on 5<sup>th</sup> July 2023, with a request that they notify the Parish Council and canvas possible dates and venue for the hearing. On 14<sup>th</sup> July 2023, I issued a document entitled Notice of Public Hearing, which set out the matters I wanted the hearing to concentrate upon and the parties I wish to be invited. This included both the District Council and Parish Council, plus a representative of Viscount Devonport, a major local landowner who

- had submitted representations at the Regulation 16 stage and a representative of residents opposed to the Cornerways allocation.
20. I set out the arrangements for the hearing, and the agenda. I also indicated that I wished to carry out an accompanied site visit to eight sites within the parish on the day preceding the hearing, which was to be held on Thursday, 21<sup>st</sup> September 2023. There were also a small number of other matters which I felt could be dealt with by way of written submissions, which I set out in that document.
  21. One of the parties I had asked to be invited to participate in the hearing was Southern Water. That invitation was passed on to the company by Rother District Council and their response was that, rather than appearing in person, they would provide written responses to the questions.
  22. I was very disappointed with that response from Southern Water and I wrote to the Company on 28<sup>th</sup> August 2023 asking it to reconsider the decision. I received a reply, dated 13<sup>th</sup> September 2023, which only offered a virtual attendance at timed slots. I set out their response along with other correspondence related to their attendance in a document entitled Additional Note regarding the Public Hearing.
  23. The site visits were held on the morning of 20<sup>th</sup> September 2023 and I was accompanied by a member of the Steering Group along with a Rother District Council planning officer. The first site we visited was the local plan allocation site at Pippins, before visiting the Tanyard site, taking views both from the entrance of the site by the Horse and Cart public house and also other views along Main Street. We then proceeded up School Lane to view the Cornerways site, including viewing the site from the nearby public right-of-way. Crossing the road, we then followed another footpath, crossing the Oaklands site and the Old Football Field, before traversing the Tanhouse site and then entering the Jempson site. We then crossed Main Street and entered the site of Woodside. The site visit concluded with a visit to the Flackley Ash allocation site, which we accessed through the hotel grounds.
  24. The public hearing took place the next day, 21<sup>st</sup> September 2023 and it lasted a full day. It was initially well attended by members of the public. I wish to place on record my appreciation for the courtesy shown to me throughout the hearing and the constructive stance taken by all participants.
  25. I raised, at the conclusion of the hearing, a question for the District Council regarding the HRA screening. I was sent an email, a week or so later, which passed on the comments of Natural England regarding the adequacy of the HRA screening which had originally been undertaken by the District Council. I subsequently had an exchange of correspondence on this issue, which I will describe in the appropriate section of this report.

## **The Consultation Process**

26. Prior to the designation of the parish as a neighbourhood area, the Parish Council commenced discussions in October 2020 about preparing a neighbourhood plan and started to look to recruit a separate neighbourhood plan group.
27. This early work coincided with the Covid pandemic, so much reliance was placed upon Zoom during the consultation on the neighbourhood plan.
28. Flyers were distributed to every household in April 2021 and this was followed by a survey form distributed in June 2021. There was a separate business survey.
29. The first public consultation workshops were held in July 2021 in the Memorial Hall and the results were fed back to residents in two sessions held in September 2021.
30. This gathering of residents' views was followed up by a range of activities, building on this earlier work, including arranging meetings with various stakeholders and consultees including Southern Water and also resulted in the appointment of consultants to produce various studies and the scoping of the SEA.
31. A second round of public consultation/workshops was held in May 2022, again at the Memorial Hall, which was followed up with a presentation to the Parish Assembly.
32. This led to a phase of work related to site analysis to assist site allocation, which was initially carried out by the Steering Group's external consultants who produced a document published in June 2022 entitled Site Options and Assessment Report and was followed up some weeks later with the Steering Group's own Peasmarsh Site Assessments own assessment document, produced in August 2022.
33. All this activity led to the preparation of the Pre-Submission version of the neighbourhood plan which was the subject of a six-week consultation, known as the Regulation 14 consultation, which ran from 31<sup>st</sup> October until 12<sup>th</sup> December 2022. The responses received from residents and statutory and non-statutory consultees are fully set out in Chapter 4 of the Consultation Statement which also includes the group's responses to the comments made.

## **Regulation 16 Consultation**

34. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a six-week period, between 17<sup>th</sup> February 2023 and 31<sup>st</sup> March 2023. This consultation was organised by Rother District Council, prior to the Plan being passed to me for its examination. That stage is known as the Regulation 16 consultation.



35. In total, 35 responses were received, including: Rother District Council, National Highways, National Grid, Historic England, Natural gas, Southern water and East Sussex County Council. I also received a substantial representation submitted by Ethical Planning on behalf of Viscount Terrance Devonport plus 8 letters from local residents plus a standard letter objecting to the Cornerways site which was sent in by 17 local residents.
36. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

## **The Basic Conditions**

37. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.
38. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
  - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
  - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

## **Compliance with the Development Plan**

39. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Rother Local Plan Core Strategy adopted on 29<sup>th</sup> September 2014 Development and the Development and Site Allocations Development Plan Document (DaSA) which was adopted on 16<sup>th</sup> December 2019. Also part of the

development plan are the saved policies of the Rother District Local Plan, adopted on 10<sup>th</sup> July 2006.

40. The overall strategy for the district is set out in Policy OSS1 – Overall Spatial Development Strategy which plans for a minimum of 5,700 dwellings to be built in the period 2011 to 2028, which includes identifying sites, including those which facilitate the limited growth of villages that contribute to supporting vibrant, mixed rural communities, including supporting service provision and meeting local housing needs so long as it is compatible with the character and setting of the village. Villages are expected to deliver approximately 1,617 dwellings over that period.
41. Policy OSS2 establishes the principle of development boundaries, intended to differentiate between areas where most forms of new development would be acceptable and where they would not. It sets out the principles for drawing up those boundaries, which is to be followed up by the Development and Site Allocation Plan.
42. Policy OSS3 set out 10 criteria for assessing the suitability of locations for new development.
43. Peasmarsch is identified as a local service village, where the relevant policy is set in Policy RA1. That includes a provision that the required housing would be refined in the DaSA and/or neighbourhood plans. It does say that “new development will be sited in close proximity to key facilities and locations accessible via a range of transport options”. Figure 12 sets out the need to find potential sites for 57 dwellings in Peasmarsch, which would largely be allocated by the DaSA.
44. Outside of the settlement the relevant policy is set out in Policy RA2 – General Strategy for the Countryside, with development considerations being set by Policy RA3.
45. The housing mix policy is set out in Policy LHN1 – Achieving Mixed and Balanced Communities. Affordable housing percentages are said by Policy LHN2 – Affordable Housing, requiring 40% on site affordable housing on schemes of five dwellings or more. Rural exception sites are allowed by Policy LHN3 and sites for wholly substantially affordable housing are said by Policy LHN4. Policy EN5 deals with biodiversity and green space.
46. The DaSA further amends the threshold for affordable housing in the High Weald AONB to six dwellings rather than five in Policy DHG1 – Affordable Housing. It also updates the policy relating to the rural exception sites with Policy DHG2. Policy DEN5 sets out the policy for sustainable drainage.
47. Policy DIM2 sets out the policy for development boundaries and the development boundary for Peasmarsch is set out in the Inset Map 12 The housing requirements expected to be delivered from Peasmarsch was updated, based on permissions granted and that has reduced the number to a residual figure of 39 dwellings based on permissions

already granted. Policy PEA1 allocated the site to the south of Main Street for a housing development comprising 45 dwellings as shown in Figure 54, with access being taking through, what is currently the footprint of the property known as Pippins.

48. The District Council is working on a new Rother Local Plan Review to cover the period up to 2039. That plan is at a very early stage, with the emphasis currently on establishing the evidence base upon which to build the plan. In any event, the consideration of the basic condition relating to the neighbourhood plan is whether it is in general conformity with the strategic policies in the adopted local plan.
49. My overall conclusion is that the Neighbourhood Plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the Rother Core Strategy and in some cases the DaSA.

### **Compliance with European and Human Rights Legislation**

50. Rother District Council issued a Screening Opinion, in a report produced in November 2021, which concluded, after consulting the 3 statutory bodies, that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required. In February 2022, AECOM, who had been commissioned by the Parish Council to carry out the assessment work, issued a Scoping Report which set out the matters that would be considered. The Environment Agency, Natural England and the High Weald Joint Advisory Committee commented on that scoping.
51. In the run up to the public hearing, I asked to see the Screening Determination, as required by the Conservation of Habitats and Species Regulations 2017. This should have been produced by the District Council as the Competent Authority.
52. I was referred to Habitat Regulation Assessment carried out as part of the preparation of the DaSA Plan, which included the Neighbourhood Plans that were then in preparation in the district, which were expected to allocate sites to meet the balance of the Core Strategy’s development requirements. At that date of the Appropriate Assessment, work had not commenced on the Peasmarsh Neighbourhood Plan and it only covered the implications of the Pippins site, which the plan was at that stage proposing to allocate.
53. I questioned the adequacy of this screening with the District Council at the hearing. The requirements of the Habitat Regulations are that the screening should be of the plan as submitted. I suggested that the District Council may wish to discuss the adequacy of what it had done, with Natural England, who are the statutory consultee on HRA matters.

54. There was an email exchange, which I was copied in on, where Natural England noted that the neighbourhood plan had introduced site allocations which were additional to the local plan allocation. Its advice was that the HRA needed to be reviewed in the light of the new allocations. It therefore seems to me that the latest basic condition regarding the habitat regulations, introduced in 2017, which questions whether the requirements of Chapter 6 of the Conservation of Habitats and Species Regulations and in particular, Regulation 105 had been complied with, to determine whether an Appropriate Assessment of the plan is required.
55. At this stage, I cannot confirm that these requirements have been complied with. However, I do believe that this need not be fatal to the examination, as I will be making a recommendation that the plan has to be screened to assess whether the proposals will have a significant effect on a European Site or a European Offshore Marine Site.
56. This screening can be done on the basis of the plan that I will be recommending should be modified, as it would be pointless to do it in respect of policies of allocations that I am proposing should be amended or deleted. That screening needs to be done before the District Council can itself confirm whether it considers that the basic conditions have been met. All my recommended modifications on how the plan should proceed are subject to my recommendation that the HRA screening should be conducted and if the screening, after consulting Natural England, concludes that an Appropriate Assessment is required, then that assessment work must be carried out and any conclusions should be incorporated into the plan.
57. Subject to that caveat, I am now satisfied that the basic conditions regarding compliance with European legislation, including the basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the Plan has no conflict with the Human Rights Act.

#### ***Recommendation***

***Before proceeding further, Rother District Council carries out the screening of the submitted plan under the terms of Regulation 105 of the Conservation of Habitats and Species Regulations 2017 to determine whether the plan, as amended in line with my recommendations, will have any significant adverse impact on any European protected sites including Marine Sites, including consultation with Natural England.***

## **The Neighbourhood Plan: An Overview**

58. I must firstly commend the Parish Council and the Steering Group for the amount of work that has been put into this neighbourhood plan

bearing in mind that the initial idea of having a neighbourhood plan for Peasmarsch, only came about in the late 2020, which was then followed by an intervening global pandemic.

59. This is a neighbourhood plan that is very firmly focused on the parish of Peasmarsch. In terms of its approach to planning for the future, it is both ambitious in making four site allocations, but at the same time being protective of its environment, valuing its position within the AONB. It particularly recognises the need for additional affordable housing and also the need for development to incorporate smaller homes. At the same time, the plan is looking to be restricted in terms of the size of developments, either looking to restrict sites to 10 units, or as set out in another policy 3 units on windfall sites.
60. The challenge facing the authors of the plan is that it is proposing a plan period up to 2039, whilst the Core Strategy only sets as a strategic framework up to 2028. Rother District Council has embarked upon preparing a new local plan, but it is very much at its earliest stages of preparation, building its evidence and it has not yet settled on an overall spatial strategy.
61. Currently, the District Council says it is not in a position to give the Parish Council a housing number to work to, which is something normally expected by the Secretary of State, as set out in paragraph 66 of the NPPF. That has meant that for the decade 2029 -2039, the Parish Council is in the dark, in terms of how much development it is expected to plan for.
62. I pressed the question at the hearing of how the Parish Council approached the question of how much development should be planned for, for the next decade and a half. My conclusion was that the driving force behind determining the amount of development to be planned for in the neighbourhood plan, was based entirely on what sites were considered deliverable, having had the call for sites and going through the site assessment process. It also recognises the overwhelming need for affordable housing based on the evidence in the housing needs assessment and has sought to focus on that sector of the housing market.
63. However, I believe the Steering Group have been placed in a difficult situation, in not having a strong strategic framework for the period it has chosen for the neighbourhood plan to cover. It is seeking to limit the amount of development due to the village being part of the AONB and exclude larger sites, which may well be well related to the village and could deliver significant amounts of affordable housing, as part of the mixed tenure developments.
64. I have little confidence that for the period up to 2039 that the plan will be, for example, delivering the social objective of sustainable development, namely that it is “ensuring that a sufficient number and

range of homes can be provided to meet the needs of present and future generations”.

65. In order to meet the basic condition requiring the neighbourhood plan to be in general conformity with the strategic policies set out in the adopted local plan, the neighbourhood area is now only expected to deliver approximately 40 homes for the period up to 2029 and these will be delivered on the Pippins allocated site which was identified in the DaSA plan. Therefore, whilst a neighbourhood plan can promote more housing than the local plan, equally there is no imperative for the neighbourhood plan to have to allocate more land as the housing expectations set out in the development plan for the period up to 2029 will have been met.
66. Putting all these considerations together, we had a discussion at the hearing, where I suggested that it may be better for the time horizon for the neighbourhood plan, to coincide with the end date of the Core Strategy. It appeared from the response, that this was a suggestion that the Parish Council would support.
67. We discussed that once work on the new Rother Local Plan had progressed to a stage where firm housing figures could be given to the neighbourhood plan group, and with this greater certainty, the Parish Council would be in a much stronger position to be able to make key choices as to what sites need to be considered, assessed and allocated to meet the new time horizon up to 2039, via a new neighbourhood plan.
68. It could, for example, open opportunities to review the development boundary so that it better reflects the existing pattern of development within the village and recognise the role, for example, that the Jempson campus plays in meeting the day to day needs of local residents. I believe that notwithstanding the policy is restricting sites to a maximum of 10 dwellings, the Parish Council expressly recognises that if access issues can be resolved, two larger sites, Oaklands and the Old Football Ground, have the potential for meeting future housing needs in a better location than those currently proposed, being situated adjacent to the Pippins allocation site and extending up to the Jempson campus.
69. By accepting the logic of reducing the timeframe to 2029, that reduces the imperative to make housing allocations now, which would have been required for the period up to 2039. It also means that the examination does not need to address the merits of other sites which have been subject to Regulation 16 representations, objecting to their exclusion from the current allocations.
70. Equally, I have not felt compelled to endorse housing allocations, which do not meet the key locational requirements set out in the Core Strategy policies, in terms of their relationship to the main settlement. I consider these to be strategic policies that the plan has to be in general conformity with. I particularly found the allocation at Flackley

Ash problematic, in that it is seeking to provide purely affordable homes in the location so far away from village services. It almost set up an expectation that families have to have access to a second car to be able to get the children to and from school, or for the children to play at the village playground or socialise in the Memorial Hall.

71. I appreciate that preparing a neighbourhood plan may have been new territory for the Steering Group and clearly it has tried to ensure the plan addresses issues of concern to Peasmarsh residents. However, I have determined that many of the policies do not meet the legal requirement to be a policy for the use and development of land. A significant number of the policies are setting out actions that the Parish Council, for example, will be taking to lobby for improvements particularly in terms of services and infrastructure. These policies could not be used for the determination of a planning application. They can, however, have a place in the neighbourhood plan, but should be relocated to Chapter 10 – Community Aspirations. That chapter will not form part of the development plan itself and is not part of this examination nor will it be voted on at the referendum.
72. My examination is concentrated on the plan policies and their wording and whether these meet the basic conditions, as well as the other legal tests. It is beyond the scope of my role as examiner to have to re-draft the supporting text. However, there will be a need to be a significant editing exercise required, in view of the changes that I am recommending, to ensure that the resultant plan reflects my recommendations, yet still reads as a cogent and coherent planning document.
73. I will leave it to the Steering Group to work alongside the Rother District Council planners to make these consequential changes to the supporting text and justifications, when preparing the Referendum Version of the plan, which will have to be published alongside Rother District Council's Decision Statement.
74. However before the neighbourhood plan process gets beyond this current stage it is important the District Council carries out the screening of the neighbourhood plan as it is proposed to be amended, under the Habitat Regulations, as I have set out in the earlier section of the plan. All my recommendations are subject to that screening being carried out

***Recommendation***

***That the end date of the plan be changed to 2028.***

## The Neighbourhood Development Plan Policies

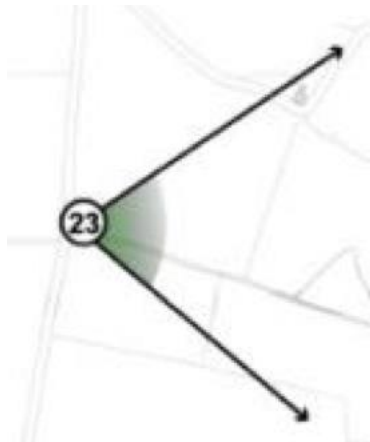
### Policy L1: Protection of Locally Significant Views

75. I do not have any issues with the selection of the actual views. My concern with the policy, relates to the way that the cones of visibility are shown on Figure 3.9. The scale is too small to allow a decision maker to know the precise location of the viewpoint, in order to assess a development proposal's impact on that view. I appreciate that the online version of the plan is scalable, but some users of the plan will be reliant upon a paper version. I will therefore recommend that the Map of Locally Significant Views be enlarged so that it fills an A4 page.
76. I also believe that restricting development just to be assessed to those which lie within the shaded areas of the arc shown on the map, would not actually protect the views which could be affected by proposals which contain land outside the shaded area. I will therefore be proposing that the policy be worded so as to relate to proposals which are visible from the identified viewpoint with the direction indicated. I also include a suggested alternative way of showing the direction of a view- the shaded element is optional. Proposals will then be expected to demonstrate how they have considered the impact of the development on those viewpoints and if necessary, mitigate any adverse impacts.

#### *Recommendations*

***Enlarge Figure 3.9 to fill an A4 page***

***Show the arcs of view in Figure 3.9 based on the following***



***In the first sentence, delete “shaded” and after “safeguards” and insert “, and if necessary, mitigate any detrimental impacts on”***

### Policy L2: Protection of Habitats

77. This policy seeks to provide an additional local level of detail, to build upon the policy set out at a district level, in Policy EN5 of the Core Strategy and Policy DEV4 of the DaSA, by referring to the types of priority habitats found within Peasmarsch parish and as shown in Figure



3.10. This is in line with the approach promoted by the Secretary of State and set out in paragraph 179b) of the NPPF.

78. The policy seeks to protect *all* habitats rather than *priority* habitats and, as drafted, places the same level of protection on both. National guidance refers to "wildlife rich habitat" and "priority habitats". Paragraph 175 of the NPPF states the plans should "take a strategic approach to maintaining and enhancing networks and green infrastructure".

79. My concern is that the policy seeks to safeguard the health of *any* habitat in the parish, irrespective of its value. I therefore propose to set the threshold as "wildlife rich" habitats as well as the priority habitats as set out. That then allows for the improvement of the ecological value through biodiversity net gain provisions to be introduced on a national basis, whilst not placing an unnecessary extra constraint on new development in the parish.

#### ***Recommendations***

***Enlarge Figure 3,10 to A4 size***

***In the first sentence before "habitats" insert "wild-life rich"***

#### **Policy L3: Protection of Trees and Woodlands**

80. I have no concerns in principle with the aspirations of this policy, but whilst national policy equally presumes against the loss of ancient woodland and veteran trees, it nevertheless does countenance their loss "where there are wholly exceptional reasons and a suitable compensation strategy exist". I will propose a similar wording as an amendment to ensure that the policy meets the basic conditions.

#### ***Recommendation***

***Insert at the end of the policy "except where there are wholly exceptional reasons and a suitable compensation strategy exists"***

#### **Policy L4: Protection of Biodiversity**

81. This policy is proposing that development should generate a 15% biodiversity net gain (BNG) and this is higher than is expected to be introduced by the national scheme to be introduced in 2024, as a result of the Environment Act 2021. Whilst Rother District Council is looking to impose a higher figure that could only be adopted if it was supported by convincing evidence. I understand that the District Council is exploring whether the evidence exists to support a 20% net gain across the district. However, in respect of the neighbourhood plan, there is no evidence to support a policy requirement for greater than the minimum 10% limit. In its response to my Initial Comments, the Parish Council confirmed that it "selected a 15% in BNG on a subjective basis".

82. There is every indication that the national scheme will be put in place before the neighbourhood plan is “made” and there is no evidential basis for expecting development to introduce a higher rate than will be delivered by the national scheme. I consider that this policy will not serve any positive purposes and is not supported by any evidence other than assertion. This is a view that is shared by the District Council.
83. The national requirements were specified as to what thresholds will apply in terms of types of development and establish such matters as biodiversity net gain reports and provision for offsite provision and the purchase of biodiversity credits.

***Recommendation***

***That the policy be deleted.***

**Policy L5: Protection of Local Green Space**

84. I have no concerns regarding the choice of the seven areas of local green space. These are normally matters of local determination. I was concerned regarding the clarity of Figure 3.12, in terms of defining the extent of the protected area. The Parish Council has now prepared detailed plans for each of the local green spaces, on an ordinance survey map base, which I will recommend should be incorporated into the plan document in Appendix 4.
85. In terms of the word in the policy, it is a misinterpretation to describe the NPPF as regulations, as it is a statement of national policy and I will instead refer to “paragraph 103” of the NPPF”.

***Recommendations***

***The large-scale maps provided to me by the Parish Council on 18<sup>th</sup> September 2023 in the pdf file Large Scale maps .pdf should be inserted in Appendix 4.***

***Replace in the final paragraph “NPPF regulations” with “paragraph 103 of the NPPF”***

**Policy L6: Retain and Improve Public Access**

86. This is a policy which supports the development of green infrastructure. It only requires the inclusion of green infrastructure enhancement “where appropriate”. This could cover both residential and other forms of development. I welcome this caveat as some developments will not offer the opportunity for “traffic free routes” and improvements to the rights of way network on site but I consider that there is justification for off site provision as recommended by the District Council. If that off-site provision is not possible, then it may be appropriate to seek financial contributions and some routes have been suggested by the Parish Council, which I am happy to include in my recommendation.

### ***Recommendation***

***Replace the policy with “The provision of green infrastructure is supported for all development. Where green infrastructure cannot be included on site, offsite provision that will improve connectivity throughout the parish will be preferred including traffic free routes and improvements to local public access networks, with particular consideration to the historic routeways as shown in Figure 3.7. Contributions to the improvement and development of routes to improve the connectivity of the village, especially safe routes to the school, Jempson campus and the Memorial Hall, will be particularly supported.”***

### **Policy L7: Sustainable Public Transport**

87. A neighbourhood plan policy should be a policy for the development and use of land, which can be used to determine a planning application. This policy addresses the issue of public transport and other connectivity. As a matter of concern to the community, it can have a place within neighbourhood plan but not as a development plan policy but it can be included as a community aspiration in Chapter 10. This has now been accepted by the Parish Council.

### ***Recommendation***

***That the policy be deleted.***

### **Policy I1: Improving Road Safety and Traffic Impact**

88. Much of this policy lies outside the scope of what can be secured by neighbourhood plan policy, for example, speed reduction and traffic measures to slow vehicles is covered by highway legislation. The improvement of pedestrian routes is already covered by Policy L6. The need to secure highway safety is addressed by Core Strategy Policy TR3.

89. I will recommend that the policy is deleted, but I would have no concerns if the intentions set out are included in the Community Aspiration chapter of the plan

### ***Recommendation***

***That the policy be deleted.***

### **Policy I2: Sewage System Improvement**

90. This is a matter that occupied a substantial part of the hearing. The most radical element of the policy is the requirement that proposals must undergo an independent capacity check of the parish's sewer system by qualified professionals. The Parish Council clarified that their expectation was that this check should be funded by the applicant,

although it is silent as to what would happen if the applicant was not prepared to pay for that check.

91. As I intimated at the hearing, I consider this to be a totally unreasonable policy requirement. The underlying reason for its imposition is the Parish Council's opinion that the Peasmarsch sewer infrastructure is inadequate to accommodate any additional development and this must be resolved before any further development takes place in the parish. This view is based on the historic episodes of sewer flooding at a number of points in the parish and the view that the cause is due to a lack of capacity.
92. However the body responsible for the foul drainage system is Southern Water, which has a statutory role and a consultee on planning matters. Southern Water has categorically stated that it is satisfied that adequate capacity exist within the existing network.
93. It is clear that there has been a certain amount of "history" between the Parish Council and Southern Water, which has culminated in this policy being put forward, intended to bring an element of independent scrutiny on the conclusions expressed by the Company. Equally Southern Water has put forward a robust objection to the proposed policy, as set out in both its Regulation 14 and Regulation 16 submissions and also in its responses to my questions.
94. From my perspective, there appears to have been a complete breakdown of trust from the Parish Council, with the capability of Southern Water and this has prompted the desire to introduce an independent check on the advice that is given by Southern Water, in terms of the capacity of its network to convey foul drainage, both in terms of existing flows as well as its ability to take future flows.
95. I also learnt that this is not necessarily a recent concern, as the Parish Council conceded that drainage issues were on their agendas, thirty years ago.
96. However, as far as I can see any third-party assessment would be reliant on Southern Water's information and knowledge of the capacity and performance of its drainage system. An independent person would not, for example, be in a better position to judge whether flooding events that have taken place, were as a result of inadequate capacity or from blockages of the existing pipework, due to inappropriate materials being flushed down the drain.
97. National policy makes it clear that that the capacity and sufficiency of the waste water system is a strategic matter when it comes to deciding how much development an area can accommodate and should look at
  - the sufficiency and capacity of waste water infrastructure
  - the circumstances where waste water from new development will not be expected to drain to a public sewer
  - the capacity of the environment to receive effluent from development in different parts of a strategic policy making

authority's area without preventing relevant statutory objectives being met.

98. Rother District Council has confirmed that discussions with Southern Water in respect of Peasmarsch is that growth levels consistent with that set out in the Core Strategy and DaSA, did not raise any fundamental issues in terms of the capacity of the sewer system. Furthermore, discussions are ongoing in terms of the forthcoming Infrastructure Delivery Plan to understand if the infrastructure is a constraint in terms of proposals that will emerge in any future local plan.
99. At the hearing, I asked the Parish Council whether, in view of its stated concerns regarding the capacity of the drainage system in Peasmarsch, whether it had itself, on behalf of the community, commissioned any independent professional assessment to support its ongoing fears regarding the inadequacy of the parish's drainage infrastructure. I was told that it had not pursued that as an option.
100. I have placed great attention on the extensive work carried out by members of the Steering Group on this issue, which is set out in the supporting text and in Appendix 3, but I find the case presented less than compelling and much of the evidence is, at best, anecdotal. I cannot see it there would be any benefit to Southern Water if there was inadequate capacity in their system to accept additional development, without any necessary upgrades. They have separate powers and responsibilities pursuant to new drainage connections under their own legislation including charges related to the costs of connection. I am aware of other cases in East Sussex where development has had to be delayed or phased until upgrades have been made to Southern Water installations.
101. The planning system places significant weight on the views of statutory consultees, particularly in respect of infrastructure matters and in the case of the wastewater drainage system, it is reliant upon the advice of water companies. Southern Water's role would be effectively undermined by having a third party apparently "marking their homework" in one parish. Such a third-party check of a statutory consultee, required as a matter of policy, is not replicated in any other part of the planning system. It would place a decision-maker in an invidious position, if it was expected to adjudicate between the response from the body which is statutorily responsible for the sewer system and a different conclusion reached by an appointed consultant, who may not have access to the same information as Southern Water.
102. To adopt the system being envisaged by the Parish Council, a developer, informed by its own drainage consultant's assessment, would consult Southern Water, perhaps at pre-application stage and be told that the site can be served by the public sewer, but they would still face the uncertainty of the outcome of "an independent person". They may have entered a contractual obligation on that land based on

the assurances they had been given. My firm view it is that as Southern Water is responsible for the drainage system, its advice on the capacity of its system, should not have to be checked by a third party, in respect of every planning application submitted. That is both over onerous and unnecessary.

103. I will be proposing modifications to remove all reference to the independent check and links the implementation to any drainage improvement identified by Southern Water to the implementation of any planning consent.
104. I appreciate that drainage has been identified as a key issue by the community to be addressed through the neighbourhood plan. I also acknowledge that neighbourhood plans can identify infrastructure needed to accommodate development. However this provision is not backed up by convincing evidence of inadequate infrastructure in the village and introduces an unnecessary requirement on how applications are processed and assessed rather than determined.
105. I would suggest the best way for the Parish Council to articulate its concerns about the parish's drainage system perhaps in a document as part of the evidence base or on the Parish Council's website but it should not form part of what will become part of the development plan.

#### ***Recommendations***

***Delete” which have undergone an independent capacity check of the parish service system by a qualified professional”***

***After “improvements required” insert “to the sewer network and identified by Southern Water”***

***Delete the remainder of the policy after the first sentence.***

### **Policy I3: Surface Water Drainage**

106. I am advised that from 2024, Schedule 3 of the Flood and Water Management Act 2010 will be enacted, which will make sustainable drainage systems mandatory for all new development. The government is expected to introduce regulations and processes to define how the new requirements will be implemented. That removes the need for this policy- it may also mean that the district's requirements for sustainable drainage assessments are no longer required.

#### ***Recommendation***

***That the policy be deleted.***

### **Policy I4: Power Supply**

107. Again, the adequacy and reliability of the power supply, is a matter that lies outside of what a neighbourhood plan can cover. It sets out the expectation and actions that the Parish Council will be taking to secure improvements to reduce the episodes of power outages and this can be properly included within the Community Aspirations chapter of the plan.

***Recommendation***

***That the policy be deleted.***

**Policy I5: Telecommunications**

108. The first paragraph of the policy is a statement of the lobbying that will be carried out to secure improvements to the telecommunication infrastructure within the parish and again this is a matter that falls outside the development plan policy.
109. I have no comments in respect of the second part of the policy which sets out criteria for consideration of planning applications.

***Recommendation***

***Delete the first paragraph.***

**Policy I6: Developer Contributions**

110. The policy does not define what it expects by way of “utility provision”. The Parish Council has proposed a new form of wording, but that is specific to “electrical supply, water supply, sewage handling and landline/ broadband supply.” There could be other constraints, for example if there were capacity issues in the local school, so I will propose that the more generic description of “infrastructure and services necessary to enable the development to be acceptable in planning terms”.
111. Whilst I appreciate that the Parish Council would wish to see the developers identify what they propose, when the application is submitted, there may be matters that only come to light during the development management process. It is important to establish the principle that the developers fund the capacity improvements necessary to allow the development to proceed and this is a matter that would ordinarily be covered by a Grampian planning condition or a planning obligation.

***Recommendation***

***Replace the wording with “Where there is a capacity issue in respect of infrastructure and other services, which are identified as being necessary to enable the development to be acceptable in planning terms, developers will be expected to provide or fund the necessary capacity improvements before the development is either commenced or occupied, as appropriate, and this shall be required to be delivered either by a planning condition or planning obligation which meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.”***

**Policy I7: Access to High Quality Secondary Education**

112. Again, this is a matter that lies outside the remit of a land-use planning policy and sets out the proposed actions to be taken by the Parish Council and their actions can be included within the Community Aspiration chapter of the plan.

### *Recommendation*

***That the policy be deleted.***

## **Policy E1: New Business Space Development**

113. This policy seeks to restrict new business uses to those that fall within Use Classes E (a), (b), (c), and (g). This would allow retail, food & drink users, financial, professional services and offices, research and development and light industrial uses.
114. I did question why the Parish Council has excluded other uses within Class E such as leisure or sport facilities, medical uses or a nursery school. The Parish Council's response was that they were choosing types of businesses where there was a gap in the local provision and that there were already these facilities which served the community in the village or close by. However that it is not the role of the planning system to restrict consumer choice or to protect existing businesses from rivals. Whilst there may be, for example, a gym in the Flackley Ash Hotel, there is no justification for preventing another leisure business from seeking to operate from premises in the parish. The benefit of the use classes is to allow flexibility to changes of use without the need for planning permission. I will therefore be recommending that all uses within Use Class E should be supported.
115. I also questioned why the policy excluded industrial uses which may fall outside the light industrial classification, such as engineering workshops perhaps for the maintenance of agricultural machinery, for example. I will be recommending the inclusion of the wording agreed between the District Council and the Parish Council which allows B2 and B8 uses in certain circumstances. However, once a use is established a change of occupier can take place so long as it remains in the same use class without requiring planning permission. It is not necessary to restrict uses to those that function as a community facility or service as suggested by the Parish Council as the essence of the policy is to improve the sustainability of businesses.
116. I will remove reference to the use of "limited circumstances" as the policy is clear as to what uses can be contemplated. Also, it is not the Parish Council that imposes planning conditions which removes permitted development rights and I will make that amendment also.

### *Recommendations*

***Replace "use classes E9a), E9b), E(c) and E(g)" with "Use Class E"  
At end insert "Developments falling within Use Classes B2 and B8 will also be supported in limited circumstances, provided that the scale of development is appropriate to the location and particular use is appropriate to a rural parish within an AONB"***



## Policy E2: Adaption of Existing Buildings for WFH

117. The underlying premise of this policy is that planning permission is required to convert a building within a residential property, to say, a home office. Normally, homeworking is considered to be incidental to the use as a dwelling house. However, it may be that, if non-residents also are employed to work in the building, as their place of work, that could constitute material change of use. I propose to carry out the policy with “where planning permission is required” and also clarify that the policy for working from home only relates to residential properties.
118. The second part of policy refers to buildings, without specifying that it is referring to residential buildings. It goes on in the first requirement to state that all activities are predominantly undertaken by the occupant of the dwelling. I will clarify matters in my recommendation.

### *Recommendations*

***At the start of the first paragraph, insert “Where planning permission is required,”***

***In the second paragraph replace the text up to “will be supported” with “Proposals to create workspace that involve the use of part of a residential building, the erection of small-scale freestanding buildings within the curtilage of a dwelling, extensions to a domestic building or the conversion of outbuildings within the curtilage of the dwelling”***

## Policy E3: Rural Conversion for Business Use

119. The Core Strategy’s Policy RA4 only relates to “traditional historical farm buildings”. Many buildings that will be covered by this neighbourhood plan policy, by virtue of being redundant farm buildings, will not be covered by the Local Plan policy as they could not be classed as traditional historic farm buildings. I will clarify that the first criteria will only apply in respect of traditional historic farm buildings.
120. In order to bring the policy into line with the NPPF, I will extend the scope to include “well designed new buildings”. The District Council recommend the policy should be deleted but I consider that this policy can be differentiated from the Core Strategy Policy RA4, as this policy covers all rural buildings.

### *Recommendations*

***After “or other buildings” insert “or the construction of well-designed new buildings”***

***At the start of the first bullet, insert “in the case of traditional historic farm buildings”***

## Policy E4: Promotion of Sustainable Tourism

121. The Parish Council has confirmed that it is happy to accept the proposed rewording proposed by Rother District Council which removes the test of the tourist facilities need to meet local needs.

### *Recommendation*

***Replace the first paragraph with “Proposals relating to tourism facilities and activities that are in keeping with the rural character of the parish, in terms of scale and location, will be supported when they have regard to the conservation of the High Weald AONB and comply with relevant policies of the local plan and accord with the following requirements”***

## Policy H1: Housing Mix

122. This policy, as submitted, requires that any housing built in the parish up to 2039 should be affordable houses. That is a position that would be contrary to national policy which requires the size, type and tenure of housing needed for the different groups within the community should be reflected in planning policy.
123. In particular, Paragraph 64 the NPPF sets out the circumstances where affordable housing should not be set. In the case of Peasmarsch, housing within the development boundary, below the threshold set requiring the delivery of the affordable housing, can be built as market housing. I would recommend this element of the policy should be deleted
124. I consider the emphasis towards medium and smaller homes is justified by evidence which is set out in the Peasmarsch Housing Needs Assessment which I believe justifies a departure from the housing mix set out in the Core Strategy LHN1.

### *Recommendation*

***Delete the last sentence in the first paragraph.***

## Policy H2: Rural Housing Sites

125. This policy states the proposals which accord with Core Strategy Policy LHN4 will be supported, subject to national policies and other policies. This essentially is a policy requiring compliance with a policy or policies which already apply within Peasmarsch parish.
126. This policy essentially duplicates existing policy, which is a practice contrary to Secretary of State advice set out in paragraph 16 f) of the NPPF. However I do recognise the desire of the Parish Council to see affordable housing allocated in accordance with local need, which they state are persons with a connection with the parish. The Parish pointed me towards the experience of the Community Housing Trust, as used by Icklesham Parish Council, but that is achieved by setting up a separate

social housing entity to deliver affordable housing using their own allocation criteria.

127. I will recommend that the first paragraph be deleted, as it adds nothing to the existing policy and accordingly does not have regard to Secretary of State policy. Whilst I have recommended the deletion of the two site allocations for wholly affordable housing, this policy could play a role if alternative proposals came forward that met the criteria set in Policy LHN4 of the Core Strategy.

#### ***Recommendations***

***Delete the first paragraph.***

***At the start of the second paragraph, delete “In all cases” and insert “In the case of development for affordable housing sites delivered in accordance with RDC Policy LHN4”***

### **Policy H3: Conversion of Rural Buildings to Residential Use**

123. The Secretary of State’s policy, as set out in paragraph 80c) of the Framework, is to support the conversion of redundant or disused buildings where it would enhance immediate setting. The criteria set in Core Strategy Policy RA4 only applies to Traditional Historic Farm Buildings which are those dates of pre-1880, apart from later uses which are potentially of interest. I will recommend that the first requirement clarifies that the priority referred to only relates to traditional historic farm buildings.

#### ***Recommendation***

***At the start of the first bullet, insert “in the case of traditional historic farm buildings”***

### **Policy S1: Development Size**

124. I found the Parish Council’s position in terms of ruling out development of more than 10 units, somewhat contradictory. It seems to limit the size of sites to 10 dwellings, irrespective of the size of the site, especially as the policy seeks to encourage smaller properties. I have seen no compelling evidence on infrastructure issues, that would justify an arbitrary limit. It could lead to the inefficient use of sites, meaning that potentially developable land could be wasted and that could lead to pressure to build on more sites, to address housing need.
125. It appears that the plan recognises the development potential of a couple of sites, which it has identified, but has not allocated, when constraints affecting those sites, such as access, have been resolved. It would be counter-productive to limit the delivery of housing on these sites to 10 units to satisfy this policy, especially as it would not necessarily impact on the character of the settlement or the wider AONB. The Parish Council drew my attention to paragraph 177 of the NPPF, which states that in Areas of Outstanding Natural Beauty, permission should be refused for major

development other than in exceptional circumstances and whether it is demonstrated as a development is in the public interest. However the definition of a major development, set out in the Glossary to the NPPF, states that major development is 10 or more units but the footnote clarifies that that definition does not apply for the specific purposes of paragraph 176 and 177 of the NPPF, which is what the Parish Council is using as justification for the policy.

126. I do not consider the exceptions in the policy, namely where it is “in the interest of the parish stakeholders” offers the necessary clarity as to how the policy should be implemented. As the Secretary of State has set out in the Planning Practice Guidance, a neighbourhood plan policy should be “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications”.
127. The Parish Council’s position was further “muddied” by the letter from the Chairman of the Parish Council, which recognised that the policy could have unintended consequences and suggested that a more flexible approach may be required and the Parish Council “must be prepared to accept a higher number of houses (25-30?) with the proviso that a satisfactory agreement on affordability and viability is reached with a developer.”
128. I will therefore be proposing that this limit on development size be deleted.

#### *Recommendation*

***That the policy be deleted.***

### **Policy S2: Allocated Sites**

129. Again, this was a policy that took up time at the hearing. It also generated the greatest level of opposition from local residents, in terms of the allocations at Flackley Ash and Cornerways.
130. I must acknowledge the systematic approach that the Parish Council has adopted in terms of the site selection process, appointing AECOM to produce the Site Options and Assessment Report which was given a local dimension with the Steering Group producing its own Peasmarsh Site Assessments. It represents a largely objective approach to site selection which was subsequently taken forward in the SEA’s consideration of reasonable alternatives, in terms of site selection – however that SEA exercise essentially relied upon the choices which had already been made by the Steering Group rather than the usual procedure, which is for the SEA to inform the choice of sites.
131. Two sites are allocated for wholly affordable housing, based on the principles that are in Policy LHN4, at Flackley Ash and Woodside, which together are proposing up to 20 affordable dwellings.
132. If the sites are to be purely affordable housing, they are, by their nature occupied by persons who cannot purchase a house on the open market. It could be occupied by, for example, first time buyers or young families in

housing need. The Group's assessment of the Flackley Ash site, noted that the distance from the village amenities. It is a considerable distance from the local primary school in School Lane – some 1.2 km, the village hall and the villages recreation ground. I believe that the distances are beyond what would be a reasonable walking distance for these facilities and on the site visit I noted the narrowness of the footway alongside the A268. Somewhat, bizarrely the summary of the site states "its remoteness would make it a good rural exception site." I disagree with that assessment. The District Council point out that residents would be "largely car-reliant".

133. The relevant Core Strategy Policy LHN4, establishes the principle of allocating sites for wholly affordable housing, but only if such sites are "within or adjacent to settlement boundaries". I have concluded that the Flackley Ash site is so far removed from the main village that it would be an unsustainable location for affordable housing, particularly having regard to the Core Strategy's principles for deciding areas where most development would be acceptable which are set out in Policy OSS2. This refers to the availability of local infrastructure and services and accessibility to facilities and services. I also consider that it undermines Policy RA1 for the Villages, which in requirement (vi) refers to improving access to day-to-day services, particularly by public transport, walking and cycling. In particular this allocation, contravenes the policy stipulation that "new development will be sited in close proximity to key facilities and in locations accessible via a range of transport options." This is a view that is shared by Rother District Council.
134. The next site on the list is Woodside, which again lies away from the main settlement's community facilities, although it is opposite to the Jempson store. Furthermore the plan indicates that vehicular access into the site would be via a four-way junction, either a roundabout or a traffic light junction, which in my experience do not generate sufficient land value to be fundable by a development comprising a maximum of 10 affordable homes.
135. Furthermore, securing a direct access onto the A268 will require significant loss of the woodland screening of the site in order to achieve the necessary visibility splays, bearing in mind the 40-mph speed limit at this location. The District Council also agree that the new access arrangements would change the rural character of this edge of village location. I am satisfied that any development of the site would not have an unacceptable impact on the setting of the adjacent buildings.
136. In the absence of any residual need for the plan to allocate additional houses to achieve the housing requirements set out in the Core Strategy, I do not believe that there is an overwhelming need to identify these two sites which are well away from the development boundary and are in my opinion sub optimal locations, to meet the village's housing requirements for the period up to 2029. However, if when the plan is reviewed in the

light of a new strategic housing requirement for Peasmarsh Parish for the period up to 2039, the Woodside site could play a role, especially if there is a review of the development boundary to recognise the developed nature of Jempson's site and its role in helping meet the everyday needs for residents.

137. The site at Cornerways was the late allocation in the site selection process. I was particularly struck on my site visit of the prominence of the site when viewed from the public footpath. The site is entirely open with no screening. Whilst the policy may require landscaping/ tree planting, it would take many years before providing any meaningful visual softening could be provided. Accordingly, I place greater weight on the allocation's harmful impact on the Area of Outstanding Natural Beauty, where the overriding policy requirement is directed to conserving the landscape and the scenic beauty. The District Council in its Regulation 16 submission describes the location as "an exposed and elevated site which has a strong rural character, development here would have an urbanising impact and be harmful for the AONB" I agree with that assessment and will therefore propose the site should be deleted. I do believe that the access and drainage concerns raised could be overcome at a development management stage but that does not override my concern of the impact on the landscape.
138. The final site I have considered is Orchard Way, which whilst it is currently outside the development boundary, does lie adjacent to it and that boundary is proposed for amendment in Policy S3 so that it would fall within the boundary. The only issue with this site, relates to the comments of the Highway Authority, but I believe there is sufficient space within the site and Orchard Way to allow a turning space, so that all vehicles needing to access the site will be able to exit onto Main Street, in a forward gear. I see no reason why this allocation cannot remain within the plan, as it is well related to village amenities and will not have any adverse impacts on the landscape.
139. I do not believe there is any planning justification for limiting development to three houses on non-allocated sites. There is an inherent contradiction in the Parish Council's position, as it was proposing that sites should be limited to 10 in Policy S1. I consider that the capacity of sites, for example, coming forward within the development boundary, should be based on the size of the site, the size of properties being proposed and the character of the area, reflecting any constraints on the site such as trees or impact on the wider landscape.

#### ***Recommendations***

***Replace "sites" with "site"***

***Replace the rest of the policy after the first sentence with "Orchard Way- up to 5 dwellings"***

### Policy S3: Development Boundary

140. The Parish Council argued at the hearing that a *development boundary* was a different to a *settlement boundary*. The starting point for my deliberation is Policy OSS2 which refers to The Use of Development Boundaries and Peasmarsh is identified as a village with a development boundary which is established in the DaSA. That policy establishes that within the boundary most forms of development would be considered acceptable.
141. The situation is somewhat muddled by the language used in Policy LHN3 and Policy LHN4 in the Core Strategy. The policy on rural exception sites refers to *development boundaries* and in criteria (v) of that policy, it refers to "*settlement development boundary*" whilst Policy LHN4 refers to sites "within or adjacent to *settlement boundaries*)
142. Unfortunately the Core Strategy and the DaSA does not define the term *development boundary* in their Glossary, neither does it define *settlement boundary*. The District Council indicated that the terms are intended to refer to the same principle and could be interchangeable.
143. I do not consider a decision maker could have any grounds for suggesting a settlement boundary is different to the development boundary. In my experience, local plans and neighbourhood plans will refer to a development boundary, settlement boundary and in some cases a village envelope. They are all describing the same planning principle, that supports most forms of development within a defined settlement area and countryside polices apply outside the boundary.
144. The plan proposes the inclusion of the Pippins local plan allocation site within the Peasmarsh development boundary. That is sensible as the allocation is already part of the development plan and the development will form a natural extension to the village. I understand that pre-application discussions are currently underway, including with the community and the Parish Council. That will provide a substantial boost to housing supply within the village and is well located.
145. In view of my conclusions in respect of Policy S2, I propose to accept the extension to incorporate the Orchard Way site, but not Cornerways.
146. However, assuming the neighbourhood plan is going to be reviewed in the light of a new emerging local plan, I would urge the Parish Council to consider, reviewing and expanding the development plan boundary to include the Jempson store site, a substantial development which provides many of the facilities used by local residents. An expanded settlement boundary could also reflect the linear form of development that I saw up to The Cock Inn and could support residential development on the Old Football Field and Oaklands site, once the constraints have been overcome or resolved. The current version of the neighbourhood plan recognises both sites have the potential for new homes, situated within walking distance of the adjacent Jempson site and with improved footpath

provision would allow an easier pedestrian access to the local primary school. Both sites have a strong degree of visual containment which will mean that any impact on the AONB is minimised. The possibility of incorporating the 2 potential development sites within the development boundary is recognised by the Parish Council.

147. However that is a matter for a future review of the plan to consider, once the strategic policy framework has established how much development is expected to be accommodated in Peasmarsh for the period up to 2039. Any change to the settlement boundary could be initiated by the Parish Council by a review or modification of this neighbourhood plan. Alternatively, a revision of the development boundary could be wrapped up with a new Local Plan, in which case the Parish Council would be a statutory consultee. In either event, the Parish Council will have an input and therefore reference to its involvement in any change is unnecessary and indeed it refers to a procedural plan making matter, rather than being a policy which can be used to determine the planning application. I will recommend that part of the policy is removed.
148. I do accept the Parish Council's desire that where wholly affordable housing takes place outside the development boundary is considered, then they should be substantially below market rate. I do not propose to recommend the amendment of that part of the policy but as well as the conversion of rural buildings there could be agricultural worker dwellings or one for one replacement which would be acceptable development in the countryside, as prescribed in Core Strategy RA3.

#### ***Recommendations***

***Amend Figure 7.3 by removing the boundary extension at Cornerways***

***In the first sentence delete "Subject to RDC approval".***

***Delete the second sentence of the first paragraph.***

***In the final paragraph, replace "agricultural conversions" insert "conversions of rural buildings, one for one replacement and agricultural or rural workers' dwellings"***

### **Policy D1: Local Setting**

149. I have no comments to make on his policy which reflects the advice from the Secretary of State has set up in the latest version of the NPPF, issued this September. I particularly commend the Peasmarsh Villagescape and Design Code document.

### **Policy D2: Placemaking**

150. Again I have no comments with regard to this policy and the basic conditions.



### Policy D3: New Homes

151. Similarly I have no concerns with the ambition of this policy in terms of allowing homes to meet the changing needs of residents. The clarity would be improved if the wording is changed, so that the homes should be “capable” of meeting the changing needs of residents.

#### *Recommendation*

***In the first paragraph replace “meet” with “capable of meeting”***

### Policy D4: Energy Efficiency and Sustainability

152. The Secretary of State in a Written Ministerial Statement to the House of Commons, dated 25<sup>th</sup> March 2015, stated that neighbourhood plans should not set “any additional local technical standards or requirements relating to the construction, internal out all the forms of new dwellings”. The first sentence of the policy states that new development is *required* to achieve the highest-level of sustainable design. That in my view goes beyond what the Secretary of State states a neighbourhood plan can require – as it is setting that as a requirement. However the remainder of policy sets as the threshold, that development “should” and “will be supported” rather than saying that it is a requirement all the development “must” comply with. Failure to comply with the policy would not necessarily constitute grounds for refusal as it is a policy that actively supports proposals that deliver the Parish’s expectations.
153. The deletion of the first sentence should allow the Parish Council’s aspirations to be highlighted and supported, but in a way that has regard to national policy.
154. The recommendation has already been accepted by the Parish Council.

#### *Recommendation*

***Delete the first sentence.***

### Policy D5: Dark Skies

155. I have no other comments to make on this policy.

### The Referendum Area

156. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Peasmarsch Parish Neighbourhood Plan as designated by Rother District Council on 25<sup>th</sup> March 2021 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

157. I congratulate Peasmarsch Parish Council on reaching a successful outcome to the examination of its neighbourhood plan.
158. It is clear that a huge amount of hard work has gone into this plan by volunteers on behalf of the local community and I am pleased to recognise their sterling work. It has ensured that momentum has been maintained producing a plan in a commendably short time. I would also wish to express my thanks for all the assistance I have been given by both officers of the District Council and the Parish Council/ Steering Group during this examination.
159. I appreciate that the Parish Council will be somewhat disappointed with a number of my recommendations, particularly in terms of the independent review of the drainage implications of new development. Whilst the approach being proposed, would have been, in my experience, unique, it would have undermined the relationship between the statutory consultees with the planning process, even if that third party independent check was only applied to a single parish.
160. The hearing highlighted some of the matters that were likely to be the subject of my recommendations. However much of the plan has emerged with only minor re drafting required to ensure the policies have regard to national and strategic planning policy.
161. I urge the Parish Council to remain engaged with the neighbourhood plan process, now it has learnt lessons from this version of the plan and should roll forward the plan to 2039 with the benefit of a new strategic framework which will be emerging in the next few years from the District Council.
162. To conclude, 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 once the screening of the plan under the Conservation of Habitats and Species Regulations has been carried out by Rother District Council, and that it will then be appropriate, if successful at referendum, that the Plan, as amended, be made.
163. I am therefore delighted to recommend to Rother District Council, subject to the above caveat, that the Peasmarsch Parish Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI, FRGS  
John Slater Planning Ltd  
24<sup>th</sup> November 2023