

Report to	-	Chief Executive
Date	-	October 2025
Report of the	-	Head of Planning
Subject	-	Examiner's Report into the Hurst Green Neighbourhood Development Plan 2021-2028

Recommendation: That: Under the Chief Executive's delegated authority, it be decided that the Hurst Green Neighbourhood Development Plan incorporating the Examiner's modifications, as set out at Appendix 1, proceeds to local Referendum, and that the Referendum Area be the Parish.

Introduction

1. The Examiner, Mr. John Slater, appointed to consider whether the Parish Council's submitted Neighbourhood Plan meets the required 'basic conditions', issued his report on 28th March 2025. It is attached as Appendix 2. The analysis and assessments of the policies of the Hurst Green Neighbourhood Plan (HGNP) are contained on pages 16 to 34 of his report.
2. Attention is drawn to the earlier [Cabinet report of 9 December 2024](#), which summarised the submitted Plan and its background, as well as this Council's own representations.
3. This report focuses on the legal responsibilities of this Council to consider the Examiner's recommendations and to decide whether the Plan, with the Examiner's modifications, meets the required 'basic conditions' such that it should proceed to referendum.

The Examination & Examiners Recommendations

4. The Examiner undertook the Examination by means of written representations only, meaning that no hearings were held as part of this process. He produced a written report which concluded as follows:

'I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan be made.

I am therefore delighted to recommend to Rother District Council, that the Hurst Green Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.'

5. The recommended modifications include:
 - The development boundary should be amended to follow the parish boundary at Burgh Hill.

- Remove reference to exceptional circumstances being required to allow development outside the village boundary and also to support the redevelopment of brownfield land across the whole parish.
 - Deleting policy HG21: Highway Capacity at Key Road Junctions as the policy sought to prescribe matters which are the responsibility of the Local Highway Authority.
 - Include the two London Road housing sites as allocations and re-introduce the text and policies relating to these sites from the Regulation 14 version of the HGNP, because while these have planning permission they have not yet been constructed, and removing reference to only allowing small infill development in the areas set out in Policy HG 1.
 - Removing reference to the Aims and Vision document in the policy and differentiating between policies for designated and non-designated heritage assets.
 - Reducing the number of design guidance documents that have to be referenced by applicants, to only need to reference documents which provide locally contextual guidance.
 - Modifying the policy relating to the impact of the A21 on new residential development and removing the need for new homes to be connected to broadband before the dwelling is occupied, so as to allow future residents the choice of supplier.
 - Removing the need to show how a proposal reduces fuel poverty levels and also the policy requirement for electric vehicle charging as this is now covered by the Building Regulations.
 - Ensuring the policy regarding improvements to the public realm meet the statutory tests covering planning obligations.
 - Restricting the requirement for passive infrared detectors to external lighting only.
 - Removing the policy requirements to deliver net biodiversity gain as the provisions of the Environment Act 2021 have been fully introduced and set the requirements for this matter.
 - The green village hub's location should be shown on the Proposals Map.
 - Proposals for rural tourism only need to demonstrate their economic benefits, rather than social and environmental benefits as well, in line with the NPPF.
 - Clarifying that shared surfaces can be used in limited circumstances as the messaging in policies was inconsistent.
 - Deleting the policy identifying which junctions need to be modelled in the case of Transport Assessments / Transport Statements.
6. The recommended modifications to the HGNP have resulted in the rewording of various policies and supporting text along with some amended mapping throughout the Plan.
7. The Examiner has confirmed that the referendum area does not need to be extended beyond the plan area, therefore it remains as the Parish.

8. Following the Examination, Rother District Council and Hurst Green Parish Council considered that an additional modification was required to the HGNP comprising the removal of 5 paragraphs on housing numbers, for clarity. Advice was received from the Examiner who had no objection to this additional modification.

Consideration of the Examiner's report and proposed modifications

9. The Council must now consider each of the Examiner's recommendations. It is not obliged to accept them but should be aware that the purpose of the examination is to provide independent scrutiny by a duly qualified person. The legislative position¹ is that the Local Planning Authority can only make modifications post-examination if it considers them necessary to meet the 'basic conditions', be compatible with Convention rights (within the meaning of the Human Rights Act 1998), accord with relevant Regulations or to correct errors. Also, in this event, further consultation and potentially a further examination would be required.
10. For reference, the 'basic conditions' relate to the need to:
 - have regard to national policies and advice;
 - contribute to sustainable development;
 - be in general conformity with the development plan's strategic policies;
 - not breach or otherwise be incompatible with EU obligations.
11. Overall, we believe that the Examiner has undertaken a fair and robust examination of the submitted Neighbourhood Plan, properly considering all duly-made representations.
12. It is noted that the Examiner has taken the view that, as modified, the HGNP would meet the basic conditions, particularly in general conformity with the Rother District Core Strategy and Development and Site Allocations Local Plan.

Parish Council Response and Referendum version of the Neighbourhood Plan

13. Hurst Green Parish Council has confirmed that it has agreed to accept each of the modifications recommended by the Examiner. It has corresponded with officers and has made the necessary amendments to the Neighbourhood Plan for it to progress to Referendum.
14. A full draft of the Hurst Green Neighbourhood Development Plan, incorporating all modifications, consequential changes and updating, as agreed with the Parish Council, has been collated and is contained in Appendix 3. A separate Schedule of Modifications has also been prepared in Appendix 1.

¹ Paragraph 12(6) of the Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and the Planning and Compulsory Purchase Act 2004 (as amended).

Conclusion, Implications and Referendum

15. The Examiner has carefully considered whether the HGNP meets the necessary 'basic conditions' and concluded that it does, subject to a number of modifications. Planning officers accept these conclusions, as does the Parish Council; hence, it is recommended to endorse the Examiner's recommendations (as detailed in the decision statement attached at Appendix 4), including the proposed modifications as agreed by RDC & HGPC, and put the modified version of the Neighbourhood Plan, (Appendix 3) forward for Referendum to the residents of Hurst Green Parish.
16. If there is majority support for the Neighbourhood Plan at Referendum, this Council will be obliged (subject to certain, limited exceptions) to formally make it part of the statutory development plan.
17. A notable implication of making the Neighbourhood Plan is that the Parish Council will then receive 25% rather than the current 15% of Community Infrastructure Levy receipts from future developments in the Parish.
18. As regards the Referendum, it is likely that it will be held in November and assuming a 'yes' majority vote, the Neighbourhood Plan will progress to Cabinet and Full Council to be formally made.

Mike Hughes
Head of Planning