

Your ref:  
Our ref: 6.3a RNP  
Please ask for: Frank Rallings  
Direct dial no: 01424 787634  
Date: 11 March 2019



Mr J Slater  
John Slater Planning Ltd.  
BY EMAIL ONLY

**Dr Anthony Leonard**  
**Executive Director**

Town Hall  
Bexhill-on-Sea  
East Sussex TN39 3JX

Dear Mr Slater

### **Rye Neighbourhood Development Plan 2016-2028**

In view of your initial comments as Independent Examiner of the Rye Neighbourhood Plan, received on Monday 18 February 2019, Rother District Council (RDC) has prepared responses to questions 3,4,5,6,7,9,10,11,12,13,14,16. Discussions have taken place with the Rye NP representative in relation to issues raised in the Initial Comments document and these are reflected in our responses.

The following RDC responses are presented under the headings in your questions.

### **Reg 16 Comments**

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

### **RDC Comment**

RDC are in agreement with the suggested amendments to the Rye NP as put forward by Rye TC and referenced as Version 5 March 2019. For clarity, these amendments are shown in Appendix One to this letter.



## Housing Numbers

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

### RDC Comment

The question relates to the housing supply position given at paragraphs 4.1 - 4.4 on pages 22-23 of the Submission Version Rye Neighbourhood Plan (RNP).

These paragraphs refer to an outstanding housing target of 107-152 homes for Rye and Rye Harbour (as at the base date of the RNP) from the Core Strategy target (in Policy RY1) of 355-400 net additional dwellings.

The lower end of the range (i.e. 355 dwellings) feeds in to the overall District target in the Core Strategy of ‘at least 5,700 dwellings’.

On this basis, the above outstanding requirement can be read as at least 107 homes for Rye and Rye Harbour.

This calculation took a precautionary view in relation to a site for 40 dwellings at Rye Harbour. Since then, the wildlife impact concerns have been addressed following an ecological survey, to the satisfaction of Natural England. It is also being actively promoted by the site owner.

Therefore, while uncertainties remain about the deliverability of some of the RNP sites, particularly in the short term, it is satisfied that minimum housing target will be met. Furthermore, there has been good progress in relation to small windfall sites coming forward in Rye, such that even the upper end of the range should be met, if not somewhat exceeded.

Setting a minimum number of dwellings may impose undue constraints on achieving satisfactory developments in some cases.

Therefore, the expression “approximately x dwellings” is preferred.

It is agreed that this approach may not be appropriate for Winchelsea Road East – see separate comments.



## Ecological Impact Assessments

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

RDC takes the view that there is no requirement for a different Local Validation Checklist threshold for Ecological Impact Assessments in Rye. RDC would recommend that the requirement be removed from the relevant policies within the RNP. It is suggested that suitable text be included within para 4.5 to read 'Where appropriate and subject to advice from Natural England any development should be informed by an Ecological Impact Assessment (EclA), in line with BS42020:2013 and CIEEM guidance'.

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

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

### RDC Comment

Maps of the various land ownerships are supplied by Rye TC in their submission. In terms of urban regeneration and townscape improvement, a comprehensive development is a desirable outcome. However the desire of the EA to retain land for revenue income generation rather than capital assets as well as the diverse land ownership pattern means that a comprehensive scheme is not realisable at present. However that should not preclude appropriate development on other landowners' sites. It is not anticipated that RDC would invoke CPO powers. Similarly the need for a Masterplan is desirable but difficult to achieve unless a single developer is involved in a larger scale approach to land acquisition.

As a result of these issues, RDC would agree that a better approach would be to require the development to be 'carried out in a manner that does not prejudice the remainder of the allocation' as suggested by RTC. It is recommended that Policy H5 be redrafted accordingly along with para 4.12.



## The Exception Test

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

### RDC Comment

RDC are currently dealing with a planning application RR/2017/1778/P for Demolition of Queen Adelaide public house and erection of 65 dwellings comprising 38 houses and 27 flats with associated landscaping, car parking and other infrastructure. This relates to Policy H8 –Former Lower School Site. The application is undetermined. However in relation to item 7 above the comments of the Environment Agency dated 12 February 2019 are attached. There is no objection to the proposed development subject to conditions. Also submitted with the application is a Flood Risk Assessment (copy attached) Items 6 - 8 of that report (pages 19- 26) deal with proposed measures relating to flood risk. From the submitted information the proposed developers have considered both flood measures and flood risk which have satisfied EA. RDC would expect a similar approach to the development of other allocated housing sites within the Rye NP.

## Former Freda Gardham School

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

### RDC Comment

In relation to Policies H3 to H8 the comments of Highways England were as follows :-

‘Highways England has already commented on an application for H8. Due to the close proximity of the other sites to the A259, which is part of the Strategic Road Network, Highways England requests that we are consulted early with regard to any new or revised access proposals – in particular, it is noted that Policy H4 references an improved access point onto the A259 being required by the Local Highway Authority, but the A259 is part of the SRN managed by Highways England, and this should be reflected in the policy.

In relation to Policy B3 the comments were :-

Under Policy B3, Highways England notes the potential siting of a petrol station and convenience store up to 500m<sup>2</sup> at Site S1 next to the A259, which is part of the SRN managed by Highways England, and requests that we are consulted early if this site is taken forward.’



The housing provision on this site is dependent on the provision of additional flood risk mitigation by virtue of the Eastern Rother Tidal Walls Scheme (being programmed during the next five years). The development of the petrol station and convenience store could take place on the proposed site at any time subject to planning permission and agreement on the access details from Highways England (as stated above). In view of the comments of Highways England (above) relating to this site and also H4 both these sites would require improved access points onto the A259. In relation to the Freda Gardham site Policy H7 does include requirement H7(e) – ‘There should be adequate access to/from the A259 ‘

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

RDC Comment

No. This requirement can be removed

**Former Lower School Site**

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

RDC Comment

Rother DC has a Tree Preservation Order on this belt of trees. A copy of TPO 279 (dated 21 August 2007) relating to land north of Rye Railway Station, Rye is attached.

**Rock Channel Sites C&D**

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

RDC Comment

RDC would expect windfall proposals on these sites to comply with the requirements of Policy B1.

**Strategic Gap**

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



### RDC Comment

The DaSA, which is currently at examination, will redefine the boundaries of the Strategic Gap (SG). The Gap area will be shown on the Policies Map for Rother District alongside the NP designations, so all designations will be clear when the respective Plans are in place. The revised SG boundaries are only marginally different. If reference is to be made to the Strategic Gap it should be in the text (not policy) with a separate map for information (not policy). A copy of the SG map is attached.

### **Local Green Space**

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

### RDC Comment

In relation to the Regulation 14 consultation as mentioned by Rye TC, RDC would refer to the fact that advice on what constitutes a Local Green Space is unclear in relation to allotments (NPPF 2012 & Neighbourhood Planning Local Green Spaces (Locality)). RDC did not wish to prejudice general conformity with an allocation which did not comply.

As a result of the submission of the map of the Rye Allotments by Rye TC, it appears that they have statutory status so it is questionable whether they need the extra protection of LGS. RDC would suggest that the key to figure 28 be amended to state as follows Green – Local Green Space & Brown – Statutory Allotments.

### **Energy Statements**

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

### RDC Comment

RDC is dealing with Energy Statements via the emerging DaSA Policy DRM3 – Energy Requirements which is reproduced below. RDC takes the view that Policy E4 is excessive in its demands for submitted energy statements in relation to all new developments. Similarly the installation of smart meters is development not requiring planning permission. The elements within Policy E4 which could be relevant are (b) (d) & (f). RDC will require Energy Statements via emerging DaSA policy DRM3 and Policy E4 would best be future proofed to align with DRM3 as reproduced below :

#### **Policy DRM3: Energy Requirements**

**The extent to which a proposal incorporates renewable and low carbon energy technologies will be a factor weighing in the favour of a proposed development.**

**Proposed developments of more than 100 dwellings or 10,000sqm of non-residential floorspace should demonstrate that due regard has been had to energy efficiency, including through the use of renewable and low carbon energy technologies, as part of their Design and Access Statement.**



I hope that these comments will assist you with your deliberations

Yours sincerely

*Frank Rallings*

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## **APPENDIX ONE**

### **Reg 16 Comments**

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

### **RYE TC NP Comments (Version 4 March 2019)**

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

**P15** (Rye) Minor amendment to the development boundary in Figure 2 to include the new Primary School.

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

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

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

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

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

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

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

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



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

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

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

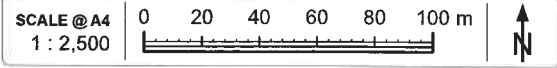
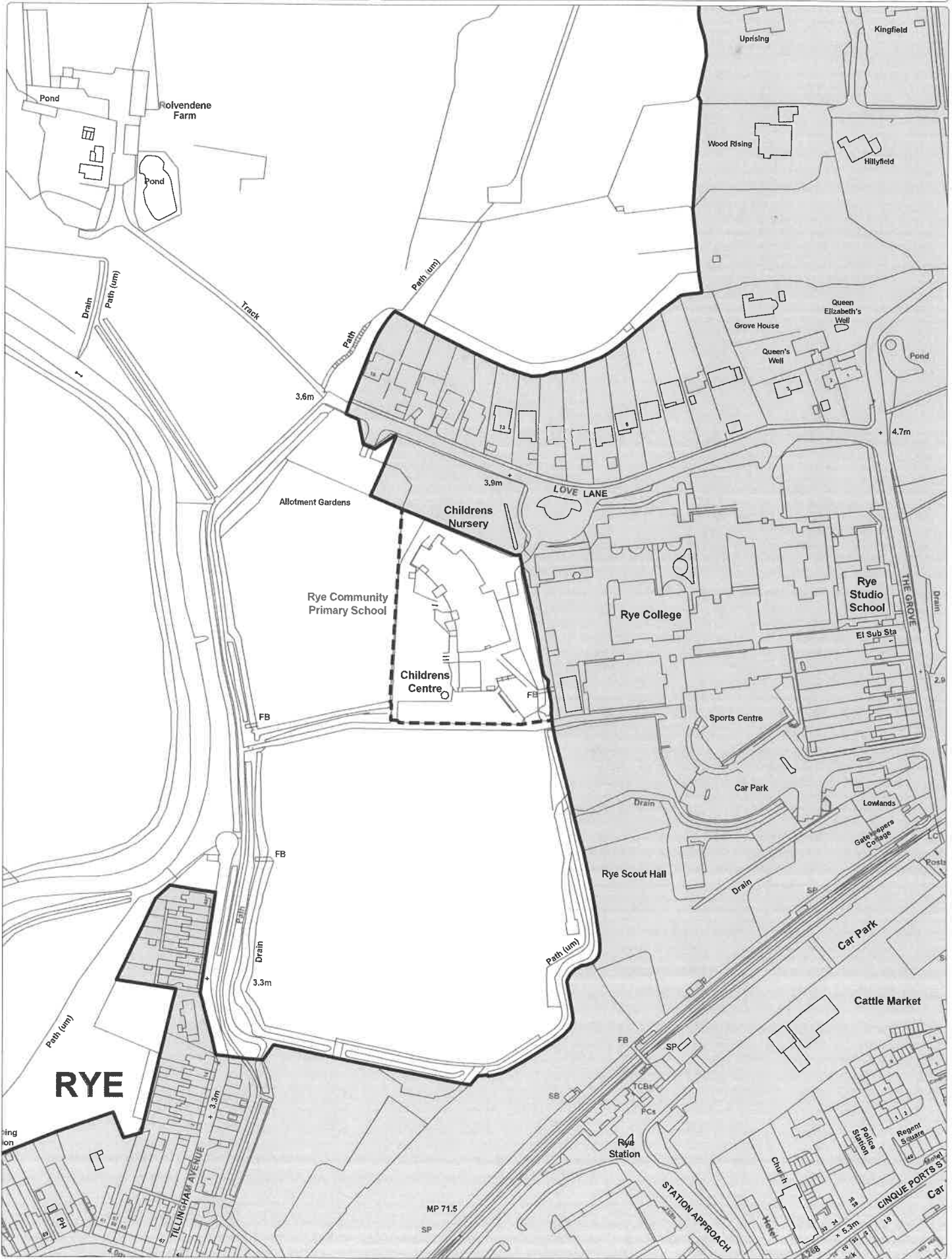
**P64:** (Natural England) ADD the “*High Weald AONB*” to the list of landscape or biodiversity designations in para 4.72 as reflected in Figure 26.

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

- AMEND Part F: *“Gibbet Marsh – Local Green Space adjacent to overflow car park”;*
- AMEND the area of this LGS on the Policies Map and on Figure 28 to show ONLY the undeveloped land to the east and adjacent to the tarmac car park, as a riverside corridor of 0.37 hectares, approximately 230m in length, ranging from 12m to 21m in width along the riverside as Map 1 below.

**RYE NEIGHBOURHOOD PLAN**  
**RTC proposed Development Boundary amendment**

**KEY**  Submission Rye NP Development Boundary  RTC proposed Development Boundary amendment to include Primary School



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Map 1 – Gibbet Marsh Green Corridor

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

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

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

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