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## **SEDEScombe PARISH NEIGHBOURHOOD PLAN**

### **ADDENDUM TO THE BASIC CONDITIONS STATEMENT**

**JUNE 2017**

1. This statement is provided by Sedlescombe Parish Council as an addendum to the Basic Conditions Statement of September 2016 in relation to the submitted

Sedlescombe Parish Neighbourhood Plan. It also provides a short statement on each of the matters raised by the examiner of the Plan, further to his request in the 'Further Directions & Hearing Procedure Note' of 30 May 2017.

2. The Parish Council has now received copies of the Rother District Council statement to the examiner of its Neighbourhood Plan, and of representations made by other parties during the recent Regulation 16 'pre-examination publicity' period. A summary of the comments made in favour of, or as objections to, the Plan is included in Appendix A.

#### **General**

3. The Parish Council welcomes the overall support of the District Council, the statutory bodies and an overwhelming majority of the local community for the provisions of the submitted Neighbourhood Plan. The District Council now appears to accept that the Plan meets the basic conditions, albeit with some possible minor rewording for the examiner to consider. The Parish Council has used its best endeavours to address the issues raised by the District Council at the Regulation 14 stage of the process.

4. The Basic Conditions Statement already explains how the Parish Council considers the policies meet those tests. It is therefore happy for the examiner to come to his own conclusions on whether or not to recommend that the minor changes suggested by the District Council are made.

### Street Farm Local Green Space (Policy 11)

5. However, it is clear that there remains one outstanding matter that the District Council is unwilling to compromise on - that of the Street Farm site. The Parish Council acknowledges that the District Council has resolved to grant consent for a housing scheme on the land. But it has advised the District Council that, until and unless that consent is issued following the failure of a Judicial Review of the resolution to grant consent (see §6 below), it would be premature for the Plan to delete the proposed Local Green Space designation or to redraw the Development Boundary to accommodate the scheme.

6. The Parish Council has resolved to pursue a Judicial Review of the resolution to grant consent on a number of grounds. In which case, a final decision will not be known before the examination finishes or the Plan is approved for its referendum, should the examiner recommend and the District Council decide that the plan proceeds to referendum. Should a Judicial Review fail after the Neighbourhood Plan is made and the decision notice is issued granting planning consent, then the policy will fall and a future development plan policies map can be amended as necessary. In which case, the Parish Council continues to consider the inclusion of the site in Policy 11 meets the basic conditions.

### Strategic Environmental Assessment

7. The Parish Council considers the comments made by the District Council on the Strategic Environmental Assessment report in relation to Street Farm are unhelpful and it continues to disagree. The report highlights the importance of the Tattenhall Judicial Review ruling on how to apply the 'reasonable alternatives' provisions of the Directive and Regulations to neighbourhood plans. But it also goes on to undertake an assessment anyway, using the professional planning judgement of its author to compare the relative benefits and harm of Street Farm to the preferred options. The report is objective in its assessment and does not seek to misrepresent or exaggerate the comparison.

8. Subsequent to that ruling, another ruling of 10 November 2016 by Mr Justice Hickenbottom on the St. Ives Neighbourhood Plan (EWHC 2817) has addressed this same matter in more detail. Although the focus and reporting of the ruling has been on its support for the proposals of that Plan to control the use of new dwellings for second homes, the ruling also makes clear how the 'reasonable alternatives' test should apply to the assessment of neighbourhood plans.

9. The examiner's attention is especially drawn to §45 of the ruling that states,

“(reasonable) alternatives, which could be regarded as obvious non-starters by anyone ... [do] not warrant even an outline reason for being disregarded”... Even if the authority does not consider such an option, it clearly does not err in law.”

10. In Sedlescombe, there can be no doubt that had the Neighbourhood Plan proposed to allocate land at Street Farm it would have been regarded by a significant majority of the local community as a ‘non-starter’ (see summary of top line results at the end of this statement). Hence, the Parish Council has exerted considerable efforts over more than four years to plan positively for development in and around the village in ways that did not rely upon such a proposal, for fear of losing the referendum if it did.

### District Council Approach to Neighbourhood Plan Support

11. More generally, the Parish Council continues to be concerned at the stance of the District Council in respect of its overall approach to the neighbourhood plan. As will be very evident to the examiner in the length, depth and opinion expressed in various District Council reports on this and the previously examined version of the Plan, it has struggled from the very start of the project to understand the meaning of §16 and §183-§184 of the National Planning Policy Framework.

12. In the Parish Council’s view, the District Council has still not grasped the fundamental goal of the Government in promoting neighbourhood planning in the plan-led system as a means of enabling local communities to shape how and where development should happen in contributing to the wider vision and housing strategy of the Local Plan.

13. And it is most evident in the District Council’s decision in 2016 to twice resolve to approve the Street Farm application when it was fully aware of the planning history of the site and of the fact that the Parish Council had successfully identified more than sufficient, alternative land for housing development in its Plan.

14. The examiner is therefore encouraged to reflect on this when considering the matters raised by the District Council and to be under no illusions as to where the vast majority of community opinion lies.

### Archaeology

15. The County Council has noted that some proposed allocation sites lie within an archaeological notification area and this should have been taken into account in the site assessment process.

16. The Parish Council acknowledges that it had inadvertently used in its site assessments an older plan showing a much smaller notification area than the plan now used for this purpose. The new plan shows almost the whole village lying within

such an area, but this was not raised as a significant constraint at the time the adopted Core Strategy Local Plan set its housing supply target for the village. And it is known that applications located outside the notification area are also routinely requested to undertake an archaeological survey.

17. However, had the Parish Council known of the full extent of the area, it would have made no material difference to the assessment outcome. The County Council may speculate that the cost of addressing an archaeological issue may render a development proposal unviable, all other things being equal. But, this cannot be known until a planning application is submitted with its necessary survey.

18. As with many other matters that may be discovered when an application is being prepared, it will be for the local planning authority to determine in the planning balance if this matter is more important to resolve in agreeing a viable scheme than, say, affordable housing provision. Unless there is detailed, known evidence of archaeological interest that is of such a scale and nature to demand special financial provision being made at the outset, then it is not possible for a site assessment process to rule out land that may otherwise be entirely suited to housing development.

19. Again, as with any other matter, should one or more satisfactory schemes not be implemented during the plan period, the implications for planning for future housing supply will be addressed as part of a future review of the development plan. If the examiner is minded to recommend adding a requirement to each of the relevant allocation policies to make it clearer that an archaeological survey will be required of any planning application, then the Parish Council will have no objection to that modification.

#### Priority Habitats (Policies 3, 5 and 9)

20. Natural England reports that its records show parts of three sites are identified as 'priority habitats – deciduous woodland'. The Parish Council is aware of the presence of these habitats in the vicinity of the Pestalozzi and Sawmills sites, but the sites themselves are brownfield land with no tree coverage. There will therefore be no loss of habitat as a result of the redevelopment of either site and any indirect biodiversity effects will be considered as part of a planning application in the normal way.

21. However, if the examiner is minded to recommend adding a requirement to the policies to make it clearer that the effects of development on adjoining priority habitats should be identified and mitigated by a planning application, then the Parish Council will have no objection to that modification. The comment in relation to the Balcombe Green site is addressed below.

#### Balcombe Green (Policy 9)

22. The County Council remains concerned that it will not be possible to deliver a satisfactory scheme on this land, given its existing ecological interest. Natural England

requires that a biodiversity net gain is achieved by a development scheme and this to be reflected in the policy.

23. The Parish Council has always been mindful that these constraints, as well as the land ownership position, raise questions over the deliverability of a proposal here. Hence, it chose not to allocate the site but rather, at the behest of the District Council, to express the policy to offer support to a housing scheme in principle and to redraw the Development Boundary to include the land within the village envelope. Similarly, it will be for a planning application to demonstrate if and how it may deliver a biodiversity net gain in line with existing development plan policy. If that is not possible, then it will be for the District Council to assess that in the final planning balance.

24. As such, although it considers the land may be 'developable' in the plan period, it does not consider a scheme is 'deliverable' and the Plan is not reliant on a scheme coming forward to meet its housing supply target. However, if the examiner considers that this policy does not meet the basic conditions and recommends its deletion, then the Parish Council will have no objection to that modification.

#### Shared Access (Policies 4, 7 & 8)

25. The County Council has raised the matter of the references to achieving a shared access arrangement to the delivery of the pair of housing schemes in policies 7 and 8 and to a similar arrangement to delivering Policy 4 (using an existing access to an adjoining site).

26. The Parish Council considers that it has answered this matter as necessary in policies 7 and 8 by encouraging but not requiring such an arrangement is made, as it not considered essential to the proper planning of each site. In the meantime, the respective landowners have indicated that a shared access is also their preferred approach and they have made arrangements between them to enable such a proposal to be made in due course. If invited to do so by the examiner, it is understood that both landowners will be happy to confirm this.

27. On Policy 4, the Parish Council has sought to avoid creating a non-deliverable allocation policy by requiring access over third party land and the Highways Authority has agreed to the proposed arrangement. The solution may not be ideal, but it will not cause such highways or landscape harm to undermine the proper planning of the site and hence it can be allocated.

#### Development Boundary (Policy 1)

28. The High Weald AONB Unit has raised the matter of Policy 1 itself not defining the consequences for how development proposals will be considered depending on their location. However, the Parish Council has made it clear in the supporting text (§60 and §61) that because this policy mechanism is well-established in the Rother development plan, and the Core Strategy Local Plan already sets out these consequences, there is no need for Policy 1 to repeat existing policy. Indeed, it is likely

that greater confusion will be caused for decision makers by attempting to wordsmith existing policy.

## APPENDIX A

### Summary of the Regulation 16 Comments

		<b>% of all responses (495)</b>
<b>Total Responses to Consultation</b>	495	100%
Total support for the plan,	429	<b>87%</b>
Total objectors of some kind	40	8%
Comments	18	4%
No Comments/Withdrawn	8	2%
<b>Total Support for Policy 11 and Specifically Street Farm</b>	413	<b>83%</b>

### Summary of Objections by Policy

	<b>Policy Number</b>	<b>Number</b>	<b>% of all responses (495)</b>
Objects to the whole plan	whole plan	14	<b>2.8%</b>
Spatial Policy	1	3	0.6%
Sunningdale	2	3	0.6%
Pestalozzi	3	4	0.8%
North of Village	4	8	1.6%
Sawmills	5	3	0.6%
St Johns the Baptist	6	3	0.6%
Gate Cottage	7	6	1.2%
Church Hill Farm	8	6	1.2%
Balcombe Green	9	10	2.0%
Pump House yard	10	2	0.4%
Green Space (Street Farm specific)	11	7	1.4%
<b>Total</b>		<b>69</b>	<b>14%</b>
Statutory Consultees not included in objector			

breakdown

Some objectors objected to more than one policy