

Summary

MJH Executive Homes has taken an active involvement in the Neighbourhood Plan process and we have made detailed representations on their behalf to both to the current draft Sedlescombe Neighbourhood Plan (SNP) and its predecessor. They have significant concerns regarding the objectivity of the SNP and the extent to which sites put forward, including their land at Street Farm, Brede Lane, have been properly and objectively assessed. They raise particular objection to the continued designation of their land as Local Green Space.

Issues Raised by the Examiner

(1) Overall Plan Process

Despite the fundamental issues raised by the Examiner in respect of the previous SNP, the Parish Council has through this plan process made only very minor changes to the draft plan in response to consultation responses. Concerns regarding the extent to which the Parish Council has objectively considered the merit of comments made were heightened by the very short period of time between the close of the Regulation 14 consultation on the 12th September 2016 and the Parish's resolution to submit the Regulation 16 plan to the District Council on the 27th September 2016. A period of time, we have no doubt, was driven by the Parish's keenness to have the Regulation 16 plan before the District Council when it considered our client's planning application (LPA Ref: RR/2016/1837/P) at planning Committee on the 13th October 2016. An application that the District Council resolved to approve at that meeting on the grounds that the provision it would make for affordable housing, public open space and much needed recreation land for the neighbouring primary school, outweighed any adverse impacts. The permission was granted on the 17th May 2017 following the completion of the S106 agreement.

It is common ground that there are no development sites available within the development boundary of the village, and therefore, the Parish Council is obligated to explore opportunities to accommodate growth adjacent to it and to amend the boundary accordingly. The decision this time around to identify and allocate land on the edge of the development boundary to satisfy the Core Strategy is in this regard welcomed. However, MJH Homes continue to have concerns regarding the sustainability of the allocations themselves and the Parish Council's continued refusal to consider the relative merits of their land in any objective way and instead seek to prevent its development now and in the future by designating it as Local Green Space.

The Strategic Environmental Assessment (SEA) explains that the decision not to allocate land at Street Farm is a response to the views expressed previously by the local community regarding the site, and a concern that if put forward the plan would fail referendum. Although the SEA refers to Street Farm as an alternative site it does not treat it as a 'reasonable alternative' on the grounds that its allocation would lead to failure at referendum. This, we consider, does not justify the apparent absence of any meaningful assessment of an available, suitable and deliverable housing site. Indeed, no explanation is provided as to the basis on which our client's site was assessed and whether any regard was had to the proposals the subject of a planning application at the time the plan was produced or the responses received from statutory consultees to that application or for that matter the conclusions drawn by the Inspector and Secretary of State in determining the previous similar proposal¹. The existence of a planning application is material and yet no mention was made of the particular details of the proposal, which comprises housing only on a third of the site, with the remainder to be transferred to the neighbouring school and

¹ Appeal Ref: APP/U1430/A/A/14/2219706

Parish Council as public open space/recreation land affording protection to this land from future development and granting public access where there currently is none.

(2) Proposed Policy 11

Policy 11 proposes the designation of land at Street Farm as Local Green Space and we do consider that such a designation would not be compliant with the tests set out at paragraph 77 of the NPPF so far as at 4.55ha in size it represents an extensive tract of land, it is privately owned with no current rights of public access or enjoyment, it is not widely open to view and no new evidence has been put forward by the Parish Council beyond that considered by the previous Examiner to demonstrate its particular beauty, historic significance, recreational value or wildlife significance.

The existence now of a planning permission means that the allocation of the whole of Street Farm as Local Green Space is neither achievable nor necessary. The permitted scheme comprises housing on only a small part of the site (1.14 hectares) with the remainder (extending to 3.41 hectares) being retained as open land. The S106 agreement secures public control over this land, with the western field (0.53ha) to be transferred to the Education Authority so that the local primary school can meet its longstanding need for additional recreational space, and the remaining central field (2.88ha) to be transferred via the District Council to the Parish Council. The result is that this land will be maintained in perpetuity as public open space thereby securing the improved local green space functions sought by the SNP regardless of whether it is formally designated as such.

We are aware of the District Council's response to this situation, which proposes that the SNP be amended to reflect the planning permission so far as (1) the proposed development boundary as set out in Policy 1 and Inset A of the Proposals Map should be amended to include the eastern part of the site; and (2) the Local Green Space designation proposed by Policy 11 should be amended to exclude the eastern part of the site. So far as there would be a reduction in the area of land that would be designated as Local Green Space and that land will under the terms of the planning permission be within public control and benefit from public access, our client considers this to be a pragmatic and appropriate response given the current circumstances.

We do not consider that it is appropriate to designate the whole of Street Farm as Local Green Space on the basis that such a designation would neither comply with the provisions of paragraph 77 of the NPPF nor the recently approved planning permission. However, while we do not consider any Local Green Space designation is necessary given the specific terms of the planning permission, which secures three quarters of the land as open space within public control, we have no objection to this reduced area being designated as such as proposed by the District Council given its reduced size and change in nature.

It should be noted that MJH Homes is aware of the Parish Council's intention to make a claim for Judicial Review on the basis that they consider the District Council's decision to approve our client's planning application was unlawful and that the permission should be quashed². It is extremely early days in these proceedings and there is no knowing at this stage whether the Parish Council's request will be upheld. In this context and the fact that up until a planning permission is quashed it remains in force and should be treated as such, we do not consider that this recent event changes anything. Indeed, MJH Homes remain extremely keen to implement the permission and begin building as soon as possible, and as the enclosed letter from them confirms, they have instructed the production of working drawings, are in discussions with a Registered Provider and intend to proceed imminently with the discharge of conditions.

² Letter of 6th June 2017 from Surrey Hill Solicitors on behalf of Sedlescombe Parish Council to Rother District Council