



## **Salehurst and Robertsbridge Neighbourhood Development Plan**

Independent Examination of the Salehurst and Robertsbridge Neighbourhood Development Plan  
**Public Hearing to be held on 28th September 2017**

## **Salehurst and Robertsbridge Parish Council Response to the Examiner's Questions**

Following the initial consideration of the Plan, the Examiner, John Slater has decided that a public hearing is required to assist with his examination of the Plan and this will commence at **9.30am on Thursday 28th September 2017** at the Robertsbridge Youth Centre, George Hill, Robertsbridge, TN32 5AP. He anticipates that a one-day hearing should be sufficient to deal with the issues.

**This document outlines the Parish Council's response to the Examiner's questions.**

### **Question 1**

***Has the neighbourhood plan applied a sequential risk based approach to the identification of its residential development sites? Would it be possible for the plan to achieve its housing requirements without proposing homes to be built in areas at risk from flooding?***

#### **Response**

- 1.1 The Neighbourhood Development Plan has applied a sequential risk based approach to the identification of its residential development sites. As part of the SEA process, it takes account of the flood risk with regard to the vulnerabilities and potential solutions that reduce the residual risk. Also as part of the site assessment process, flood risk is one of the criteria which was used.
- 1.2 It is pertinent to note that the representations regarding sequential tests were only made at Reg.16 consultation, and that this issue has been raised because of the details of the current Mill Site application which was submitted after the submission by the PC of its Reg. 15 version of the NDP. We have discussed with the agent acting for the Mill Site and can inform the Examiner that their relevant documents including their submitted sequential and exception test are now available on the application  
<http://planweb01.rother.gov.uk/OcellaWeb/planningDetails?reference=RR/2017/382/P&from=planningSearch>
- 1.3 Due to the topographical constraints of the village, flooding issues and the village being entirely within the High Weald Area of Outstanding Natural Beauty, it would not be possible for the Plan to achieve the housing requirements, allocated by the Local Planning Authority (LPA) without proposing homes to be built in areas at risk from flooding. The Plan therefore when allocating sites looked at other benefits to the community, including use of brownfield sites and re-use of heritage assets.
- 1.4 Further to the site assessment and SEA, there are two important reasons why the NDP Steering Group (SG) adopted this approach. First is that in all the consultations conducted by the Group, there was an overwhelming desire by the population of the village to see the Mill Site restored to a useful function – the Mill building in particular. The Mill Site has been vacant, increasingly derelict and unproductive since site closure in 2004, and people see it is a decaying blot on an attractive landscape and an unnecessary waste of a brownfield redevelopment opportunity, if not seized as part of the NDP. The current proposal therefore chimes with the core ethos of Neighbourhood Planning.
- 1.5 Second is that the NPPF recognises clearly in para 100: *Local Plans should apply a sequential, risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk.* Therefore, development in areas of risk of flooding provided appropriate safeguards are implemented in any actual proposals for development are acceptable, if a sequential risk based approach is applied as demonstrated in the site assessment and SEA.
- 1.6 For these reasons, the NDP Steering Group were convinced that it would be appropriate to identify the whole of the Mill Site including that which is in Flood Zones 2 and 3, for development of a significant number to fulfil the housing requirement for the village.

### **Question 2**

***Does the allocation of the Mill Site for 100 dwellings unnecessarily put people and properties at risk of flooding? What are the implications of the site access being through land in Flood Zone 3? Is the Mill Site in Flood Zone 3a or 3b? Is there information available about “the frequency, impact, speed of onset, depth and velocity of flooding with relation to this site” and what allowance should be given to existence of the flood defence scheme that has been completed? Can a safe access and escape route to the site be maintained in times of flood?***

## Response

- 2.1 The allocation of the Mill site for 100 dwellings does not unnecessarily put people and properties at risk of flooding because as set out in the National Planning Policy Framework para. 100, *inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is **necessary**, making it safe without increasing flood risk elsewhere*. This development is deemed as being **necessary** and the task is therefore to make it safe without increasing flood risk elsewhere. It will be necessary for any actual application for such development on the site to satisfy the rigours of the Sequential and Exception Test required by NPPF, and the scrutiny of both the Environment Agency and Rother District Council.
- 2.2 In terms of site access implications, emergency vehicles, such as might be required in extreme circumstances, are capable of coping with accessing the site via Flood Zone 3. Cognisance must be taken of the existence of the additional flood defences which were constructed post the 2000 flood. It is worth noting that they were able to withstand the 2013 flood effectively.
- 2.3 Developments on sites in Flood Zone 3 need to submit a flood risk assessment as part of the planning application which determines if the site is classified as Flood Zone 3a or 3b as well as reviewing flood risk on the site and proposing suitable mitigation. This is because the EA does not split the zone and as such their maps only identify a general Flood Zone 3. The Mill site is in Zone 3a but the application for development on the site should satisfy the sequential and exception test required by the NPPF.
- 2.4 In regards to information regarding the frequency etc., the SG surmises that any such information would either be anecdotal only in relation to the 2000 event, since when the flood defences have been constructed, or is within the records of the EA. The Group has not had such information disclosed to it, but is aware that the EA has investigated and reported on the post 2003 scenario, i.e. post construction of the flood defences, in that they have sanctioned approval of the restoration of the Rother Valley Railway, which was the subject of application RR/2014/1608/P.
- 2.5 The SG does not possess the necessary technical expertise to assess the contribution the flood defence scheme has made to the prevention of flooding to the Mill Site and surrounding areas, but believe that such assessment is within the capabilities of the EA, who has been a consultee on the current NP and has commented on the current application RR/2017/382/P. The Steering Group understands that a safe means of egress from any flood is being proposed by the current developers of the site, to the north via footpaths.
- 2.6 As part of the detail design for this scheme, there will be safe access and escape routes to the site and the current planning application for the site addresses this.

### **Question 3**

***Are the benefits of the redevelopment of a previously developed, brownfield site and the putting to beneficial use historic buildings sufficient to outweigh the presumption against locating what is classed as “more vulnerable” developments in Flood Zone 2 and 3? Is it appropriate to rely upon the Exception Test when it comes to site allocations in a neighbourhood plan if there is land available for residential purposes outside the flood area?***

## Response

- 3.1 The benefits of developing this site are in-keeping with the NPPF and the ethos of Neighbourhood Planning which outweighs the presumption against locating “more vulnerable” developments in Flood Zone 2 and 3. Whilst flood mitigation measures can address flood issues, the only thing

which can address a disused historic building is re-development. The community were very consistent in their responses throughout the Plan process regarding the redevelopment of this site. NPPF para. 17 which looks at the core land-use planning principles to underpin both plan-making and decision-taking is very relevant to this and in particular:

- *be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area;*
- *proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth;*
- *support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);*
- *encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;*
- *conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*

3.2 The site is a relatively large (4.05 ha) site, very close to the heart of the village, vacant and increasingly derelict since the closure of the Mill in 2004. The SG recognise the general benefit to the community to be leveraged from the current application for development, which are:

1. Remediation of a now derelict site, including removal of thousands of tonnes of concrete.
2. Restoration of, for a useful future life, the non-listed, well-loved Mill building.
3. Restoration of the Listed oast house back to a productive commercial use.
4. Provision of c.1200m<sup>2</sup> of commercial/employment space, to improve the sustainability of Robertsbridge and help satisfy the Planning Authority's rural employment target.
5. Promise of a public foot and cycle path providing direct access to the railway station.
6. Increase of permeable surfaces post development.
7. Offer of the freehold of land currently leased to the PC, as part of the Pocket Park.

3.3 The SG believe the list of benefits cannot be secured without a substantial number of dwellings being built on the site, and that the best use for the restored Mill building is to provide residential flats, except for the ground floor.

3.4 The SG pragmatically believe that remediation of a brownfield site, restoration of two significant, attractive heritage buildings, providing employment space constitute expensive to provide but very significant benefits to the community. It is therefore right to use the Exception Test for site allocations in NP as the overall gain for the community is so substantial. Other sites being promoted by owners or developers, were not supported by the public during the extensive consultation process or when judged as part of the comprehensive site selection process initiated by the SG. The consensus of opinion was very much brownfield before greenfield as underscored by NPPF para 17, bullet 8.

#### **Question 4**

***Is the use of SUDS an acceptable mitigation measures for river flooding as suggested by the Plan's Environment Report? Are there any site-specific mitigation measures to ensure the development remains safe throughout its lifetime?***

## Response

- 4.1 The information from the Mill site application demonstrates acceptable mitigation measures and this detail is best determined at detail planning application stage. It is satisfactory that the principles are acceptable.
- 4.2 It is worth noting that this Plan allocates a site which is deliverable.
- 4.3 Paragraph 173 of the NPPF provides more advice on “ensuring viability and deliverability” stating *“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”*

## Question 5

***The Local Planning Authority has stated in its representations that is anxious to see some element of employment space within the Mill Site allocation. The Qualifying Body has stated that it is minded to agree to that? Is such a requirement necessary, and desirable? Are the provisions of paragraph 22 of the National Planning Policy Framework applicable to this site? This presumes against the long-term protection of sites allocated for employment uses unless there is no reasonable prospect of the site being used for that purpose”. Is there a reasonable prospect of an employment use being provided if required by the plan policy?***

## Response

- 5.1 The background to any decision making, whether at Plan or Planning Application level regarding this matter, is the RDC Core Strategy and the NPPF. RDC Core Strategy in Policy EC3 (Existing Employment Sites) accepts that a NP can review existing and potential employment sites to secure ‘effective use’ of such land. This is what the Salehurst and Robertsbridge NDP seeks to do. Until then, the policy states ‘land ... last in employment ... use will be retained in such use unless it is demonstrated that there is no reasonable prospect of its continued use for employment ...’. This, given the history of the site since closure in 2004 with no viable redevelopment project emerging until the current application, would seem to apply.
- 5.2 However, Policy RA1 is also relevant. It states that ‘the needs of rural villages will be addressed by ... (ii) encouragement of high quality sustainable economic growth by the identification of sites for local job opportunities, particularly focusing on the villages listed in Figure 10’ – Robertsbridge is the largest village by population in Figure 10, and so the SG believe it should deliver a high proportion of the target development in the rural areas of 10,000m<sup>2</sup> additional business floor space. Permissions granted since publication of the Core Strategy would, when fully implemented, deliver 1,775m<sup>2</sup>.
- 5.3 The SG had in mind a minimum for Robertsbridge of 2,500m<sup>2</sup>, i.e. 25% of the total commitment for business space in the whole of rural Rother. They believe this could be fulfilled by a combination of further development along the lines of the currently successful, mainly workshop, units in previously agricultural buildings in the parish and a specific additional provision on the Mill Site. The current application for the latter does in fact propose delivering 1,180m<sup>2</sup> which would, together with the already consented development at Culverwells, and the site adjacent to Culverwells, more than achieve the NDP’s own target of 2,500m<sup>2</sup> of new build employment space.

- 5.4 The Steering Group believe that such provision is both necessary and desirable for two simple reasons; first the village has an over 18-year-old population in excess of 2,000 and following sustainability principles, it makes sense to offer employment to as many local people as possible within the Parish. Second, the village enjoys comparatively good transport links, with hourly train and bus services and easy access on to the A21.
- 5.5 Whilst it is desirable and supported by the Parish to include employment on this site, it is not appropriate that this site is allocated as an employment site i.e. it is supported to be mixed use and not entirely employment. Therefore, NPPF para 22 does apply, as in principle do all other relevant paragraphs of NPPF, but the provisions of para 22 are not entirely applicable to the site. However, we accept that we will provide employment on this site which will ensure its sustainability for the future of the community.
- 5.6 We understand from the discussions we have had with the Mill Site owners that they are confident they will be able to attract suitable occupiers for all the employment space they contemplate will be provided.

#### **Question 6**

***If I were to conclude that the Mill site allocation did not meet basic conditions in terms of it being sustainable development and the conflict with flood policy (and I stress I have not come to any conclusions on this point), how should I deal with the question of delivering the houses that need to be built. Should I seek to introduce other sites in the plan area and in which case which ones? What are the implications for taking the plan forward?***

#### **Response**

- 6.1 It is considered that the Mill site meets the basic condition of the making of the order (or Neighbourhood Plan) and contributes to achieving sustainable development. However, should you consider the contrary to this, then there are many options available to you as the Examiner. Our preference is that the allocation is retained but with additional text added to the policy which has more specific criteria to address concerns about the site development. It is clear through the current application for the site, that the owners are very willing to work with the local community and the LPA to provide a sustainable development. This indicates that the site is deliverable, which is another important factor to be considered.
- 6.2 It needs to be noted that should a lower figure for housing be allocated on the Mill Site then this could affect the viability and the delivery of the site. Without the full complement of c.100 houses on the Mill Site, the Steering Group earnestly believes that the comprehensive development envisaged by the NP will not be achievable for viability reasons. The Steering Group recognises the high costs involved in remediating the site, together with the extensive costs in restoring to a very high standard two substantial buildings, as well as the separate provision of new employment space. They believe that in order to provide a reasonable return, and provide all the benefits of comprehensive redevelopment, the full complement of housing needs to be delivered at the Mill Site.
- 6.3 Introducing other sites at this stage would delay the Neighbourhood Plan and undermine the positive planning which the community has undertaken and articulately voiced through the consultation process. It would also mean that this historic building would remain unused for possibly another decade. The implications of a delay would be serious for the village, because currently the LPA has two significant planning applications for decision, both of which should now be viewed through the lens of a made Neighbourhood Development Plan, given the size and impact that both would have on the community long term. To re-open consultation on the NDP would mean an absence of local policy guidance to judge both applications, which would be a denial, in

effect, of natural justice for the concept of neighbourhood planning, given the extensive positive consultation and planning work that has been undertaken so far.

### **Question 7**

***Do the Site GS16 Bishop Lane Fields allocated as Local Green Space in the Plan meet the criteria set out in Paragraph 77 of the NPPF?***

#### **Response**

- 7.1 The allocation of site GS 16, Bishop Lane Fields meets all the criteria set out in para 77 of the NPPF.
- 7.2 Bullet 1: the site is immediately adjacent to a '90s housing development, Willowbank, and at its rear point is only 400 metres from what can be accepted as the centre of the village, the junction between the High Street and Station Road.
- 7.3 Bullet 2: the site was reviewed by the LPA in its SHLAA of 2014, commenting as follows:  
'it is accessible meadows [*Footpath 44 runs through the middle of the site for its complete length*] forming valued and locally important green infrastructure and is a key feature of the character of the village, being the backdrop to rural views from the village centre. Its erosion would diminish the locally distinctive character of the village and would not be an appropriate response to local context (contrary to Core Strategy Policies RA (i), EN1, 2 and 3'.  
The Steering Group agrees with such sentiments. It is also appreciated by those many people who walk daily up and down Station Road, as it forms a composite rural backdrop to the green spaces in Piper's Meadow and the Village Hall grounds. It also forms an integral part of a continuous green strand across the middle of the built part of the village, stretching from the road to Glottenham, across Bishops Lane, across Station Road, across the Clappers and across the A21, following the course of the Glottenham Stream into the River Rother.
- 7.4 Bullet 3: the site is in total 3.1 ha and a survey of made NDPs shows that green spaces have been designated which are much larger than 3.1 ha. Set out below are examples elsewhere of green spaces significantly larger than that being proposed, that have been approved by NP examiners:

<b>Parish</b>	<b>Name</b>	<b>Extent in ha</b>
Backwell	Moor Lane Fields	32.00
Petersfield	Causeway Farm	21.98
Bersted	Land west of Jubilee Playing Fields	20.40
Backwell	Farleigh Fields	19.00
Wing	Monument Fields	16.39
Market Bosworth	Country Park	15.99

### **Question 8**

***Bearing in mind the differences in ground level between the Vicarage Site and Fair Lane, which is in a Conservation Area, can a satisfactory access be created that will allow full access to the site by the range of vehicles likely to be required to serve a residential development of the scale proposed. Can an illustrative plan be prepared to illustrate an acceptable solution?***

#### **Response**

- 8.1 The site owner has commissioned an updated and expanded highways report and access plan from GTA consultants. This will be informed by a topographical survey and the final document should be completed by 28<sup>th</sup> September 2017. GTA consultants will present the solutions for a safe access to the site at the hearing along with an illustrative acceptable solution.