

John Slater Planning Ltd

# Ticehurst Neighbourhood Plan 2018-2028

---

## Submission Version

A Report to Rother District Council on the Examination of the Ticehurst Neighbourhood Plan

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

[johnslaterplanning@gmail.com](mailto:johnslaterplanning@gmail.com)

5<sup>th</sup> April 2019

## Contents

	Page
Executive Summary	3
Introduction	4
The Examiner's Role	4
The Examination Process	5
The Consultation Process	6
Regulation 16 Consultation	7
The Basic Conditions	8
Compliance with the Development Plan	8
Compliance with European and Human Rights Legislation	9
The Neighbourhood Plan: An Overview	10
The Neighbourhood Plan Policies	13
The Referendum Area	27
Summary	28

## Executive Summary

My examination has concluded that the Ticehurst Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- That protected viewpoints be shown on maps.
- Removal of the proposed green corridors apart from the one separating Flimwell from Ticehurst.
- Removing the LGS status from the highway verge at Flimwell crossroads.
- Removing all policies requiring documents to be submitted with planning applications as this is the role of the Local Validation Checklist.
- Establishing a need to justify the loss of a retail or service facility by reference to a marketing exercise.
- Deleting restrictions on servicing and restrictions on developments served by minor lanes.
- Clarifying that the policy “The Spatial Plan” only relates to housing development.
- Amending the housing policy to state that schemes of 10 units or under will be “encouraged”.
- Removing the policy that seeks to restrict the allocation of affordable housing to those with links to Ticehurst parish.

The referendum area does not need to be extended beyond the plan area.

## Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Rother Core Strategy 2014 and the saved policies of the Rother Local Plan 2006. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been led by Ticehurst Parish Council. A Steering Group was appointed to undertake the plan preparation made up of local volunteers. Ticehurst Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.
3. This report is the outcome of my examination of the Submission Version of the Ticehurst Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Rother District Council, the Local Planning Authority for the neighbourhood plan area.

## The Examiner’s Role

4. I was formally appointed by Rother District Council in October 2018, with the agreement of Ticehurst Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 40 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Rother District Council and Ticehurst Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the plan should proceed to referendum if modified
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Ticehurst Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions
    - a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.
  9. I am able to confirm that the Plan does relate only to the development and use of land, covering the area designated by Rother District Council, for the Ticehurst Neighbourhood Plan, on 2<sup>nd</sup> November 2015, if it is modified in accordance with my recommendations.
  10. I can also confirm that it does specify the period over which the plan has effect namely the period from 2018 up to 2028.
  11. I can confirm that the plan does not cover any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the Plan designation.
  13. Ticehurst Parish Council as a parish council is a qualifying body under the terms of the legislation.

## **The Examination Process**

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

16. I am satisfied that I am in a position to properly examine the plan without the need for a hearing.
17. I carried out an unaccompanied visit to Ticehurst, Flimwell and Stonegate and the surrounding countryside on 13<sup>th</sup> and 14<sup>th</sup> February 2019. This enabled me to familiarise myself with the plan area. I spent the afternoon and part of the following morning visiting and even revisiting the sites referred to in the plan. During my visit around the parish, I became very familiar with the Speed Watch team who I encountered in several different locations as I drove around the area.
18. Following my site visit and my initial assessment of the plan, I had a number of matters on which I wished to receive further information, both from the Parish Council and the District Council. That request was set out in a document entitled *Initial Comments of the Independent Examiner* dated 18<sup>th</sup> February 2019. I received separate responses, from Rother District Council, on 5<sup>th</sup> March 2019 and from the Parish Council on 6<sup>th</sup> March 2019.
19. Whilst preparing my report I received an unsolicited email from a planning consultant clarifying his Regulation 16 representation. In the interest of transparency, I included it in a document alongside an invitation to the Parish Council requesting a plan to show the viewpoints that it wished to see protected by Policy R1. That document was entitled *Further Comments of the Independent Examiner* and was dated 20<sup>th</sup> March 2019 and I received a response on 27<sup>th</sup> March 2019. All the documents have been placed on the respective websites.

### **The Consultation Process**

20. Work on the plan started in October 2015 when a steering group was formed following the neighbourhood area designation
21. A series of visioning events were held over the evenings of 12<sup>th</sup>, 13<sup>th</sup> and 14<sup>th</sup> January 2016, looking at key issues for the village and these were held in each of the three villages, Ticehurst, Stonegate and Flimwell.
22. This work culminated in a two-day Design Forum held on the 9<sup>th</sup> and 10<sup>th</sup> March 2016 which were attended by over 100 people. All this information was shared on the neighbourhood plan website, as well as publicised via the parish magazine and there was an email circulation list of over 500 members.
23. An Interim Report was produced in July 2016, which established 20 emerging policy themes and another public consultation exercise was held in November 2016, which was attended by over 180 people.
24. A business survey was conducted also during the autumn of 2016. During the same period, a “call for sites” was issued, which ran between 3<sup>rd</sup> November and 24<sup>th</sup> December 2016, with 12 sites being put forward, along with three sites that have planning permission and another two that were in the planning process. A public exhibition of possible environmental improvements within the public realm was held over the 1<sup>st</sup> and 2<sup>nd</sup> December 2016.

25. The possible allocation sites were published in January 2017 and were also discussed at the Village Assembly on 25<sup>th</sup> April 2017 with 200 residents being invited to comment. A household survey took place in September 2017.
26. All this activity culminated in the preparation of a Pre-Submission Version of the neighbourhood plan. This was subject to a period of public consultation, which is required under Regulation 14 of the Neighbourhood Planning Regulations 2012, which ran from 2<sup>nd</sup> January 2018 to 14<sup>th</sup> February 2018. Copies of the plan were widely distributed and street champions helped residents to complete a questionnaire. In addition, consultations took place with statutory and non-statutory bodies and a public drop-in events and exhibition was held on 1<sup>st</sup> and 2<sup>nd</sup> February 2018. Over 300 survey responses were received as well as 80 responses from organisations.
27. AECOM were commissioned to confirm that the policies were adequately supported by evidence. All the comments and the Parish Council's responses to those comments are comprehensively set out in the Consultation Statement.
28. I have been impressed by the openness of the process which has allowed residents to shape their neighbourhood plan. The residents were kept informed as the work on the plan progressed and they were able to input at key points in the process.

### **Regulation 16 Consultation**

29. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a 6-week period, between 9<sup>th</sup> November 2018 and 21<sup>st</sup> December 2018. This consultation was organised by Rother District Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
30. In total, 37 individual responses were received of which 16 came from local residents objecting to the Wardsdown allocation. The organisational responses came from Natural England, Southern Water, SGN, National Grid, East Sussex County Council, High Wealds AONB Partnership, Rother District Council, Environment Agency, Highways England, Tunbridge Wells Borough Council, Maynard Fruit Growers, Optiva on behalf of Thakenham Clients, Rydon Homes, DHA Planning on behalf of Peer Group PLC, Absolute Planning on behalf of Quantum Homes, and Bell Cornwell on behalf of the Stapylton- Smith Family.
31. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

32. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
33. The five questions which constitute the basic conditions test, seek to establish that the Neighbourhood Plan: -
- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?
  - Will the making of the Plan contribute to the achievement of sustainable development?
  - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
  - The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
  - Whether the making of the Plan would breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017
34. During the course of this examination the Government issued a revised National Planning Policy Framework. However, in accordance with the stipulation of Paragraph 214 of the 2019 NPPF, this examination has been carried out applying the policies in the 2012 version of the Framework.

## **Compliance with the Development Plan**

35. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Rother Local Plan Core Strategy adopted on 29<sup>th</sup> September 2014. I am aware that there are also saved policies of the Rother District Local Plan, adopted on the 10<sup>th</sup> July 2006, but that these do not constitute strategic policies. Work is underway on the emerging Development and Site Allocations Local Plan which was submitted to the Planning Inspectorate for examination on 18<sup>th</sup> January 2019. As this

is draft policy, it is not a requirement that its policies have to be considered, as part of the basic conditions test, in any event.

36. Ticehurst is classified as a Rural Service Centre in the settlement hierarchy. The spatial strategy for this area is set out in the chapter of the Core Strategy dealing with Rural Areas. Ticehurst is allocated 87 new dwellings for the period 2013 to 2028 and Flimwell is required to deliver 44 units which both will contribute in part of a rural areas requirement to provide 1,670 additional dwellings. Stonegate is not required to allocate any new land for housing. The rest of the plan area is described as countryside. The present development boundaries to the 3 settlements are set out in the 2006 Local Plan.
37. The overall Spatial Development Strategy is set out in Policy OSS1, which includes allowing limited development in the villages which contain a range of services and allowing small scale infill and redevelopment in other villages.
38. Policy OSS2 covers the use of Development Boundaries to differentiate between areas where most forms of development will be accepted and other areas, where they will not.
39. Policy RA1 deals with development in villages and Policy RA2 is a general strategy for the countryside and Policy RA3 sets out criteria for development in the countryside.
40. The policy for affordable housing is set out in Policy LHN2.

### **Compliance with European and Human Rights Legislation**

41. Rother District Council issued a Screening Opinion, on 21<sup>st</sup> July 2017 which concluded, having consulted with the three statutory consultees, that a full assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required.
42. A Strategic Environmental Assessment was initially prepared in December 2017 and this was updated in August 2018
43. The District Council, as competent authority, issued a screening report under the Habitat Regulations in August 2016 and this was updated in September 2018. This screening assessed the emerging Development and Site Allocation Local Plan and the neighbourhood plans being prepared in the district and concluded that they would not have any adverse effects upon the European protected sites, namely Pevensey Levels SAC and Ramsar Site, the Dungeness Complex of designated sites and the Hastings Cliff SAC. The District Council issued a specific HRA screening specifically on the Ticehurst Neighbourhood Plan and concluded that an HRA would not be required. Tunbridge Wells Borough Council in their representations argued that the HRA should have looked at the impact on Ashdown Forest SAC, but Rother DC has confirmed that in its opinion, as the Competent

Authority, that assessment had been done in respect of the work on the emerging Local Plan and that further screening was not required.

44. I am satisfied that the basic conditions regarding compliance with European legislation including the newly introduced basic condition regarding compliance with the Habitat Regulations are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

45. The neighbourhood plan is underpinned by a very clear vision for the parish. It promotes a range of policies which seek to retain the rural character of the parish, support employment opportunities, allocates land for residential development and meet the infrastructure needs of the area. I am sure that the plan covers all the social, economic and environmental strands which together define sustainable development. The plan will deliver the housing the parish requires and protects community facilities, promotes economic activity and protects local green space and the high quality rural landscape.
46. The Steering Group has produced a document of the highest quality. It is well laid out and makes excellent use of maps and photographs, which clearly describes the character of the plan area. The document is easy to navigate and makes a clear differentiation between development plan policies and Community Actions. In a number of areas, the actual neighbourhood plan policies have extended beyond being policies which are capable of being used to determine a planning application, which is the overriding purpose of neighbourhood plans, as set out in paragraphs 183 of the NPPF (2012). I have had to recommend some be deleted, but their aspirations can still be included in the document either as supporting text or as a Community Action.
47. The plan recognises that planning permission has been granted in recent years for three sites in Ticehurst. These will ensure that the requisite number of new homes for the village, as required by the Core Strategy, has already been met, including a substantial number of affordable homes. Nevertheless, it is proposing to allocate additional housing sites within the village, namely at land off Pashley Road, known as Singehurst and Orchard Farm. The NPPF is clear that neighbourhood plans can promote more housing that is required by the strategic policies in the local plan, but they cannot promote less. I would commend the Parish Council for taking such a positive approach to housing within the village.
48. The plan is also promoting a housing site in Flimwell that will deliver the required residual quantity of development to meet the target set out in the Core Strategy for that settlement.
49. The plan has reviewed the development boundaries for Ticehurst, Flimwell and Stonegate and has amended them, as necessary, to reflect recent planning

permissions and has also amended the boundaries to incorporate the proposed allocations within the boundary. I consider that the logic to the amended boundary is sound, once the principle of the new allocations are accepted.

50. I have received representations objecting to the plan particularly in terms of the allocation at Wardsdown House and also the site at Singehurst. In addition, Regulation 16 objections had also been made on behalf of landowners, whose sites have not been allocated in the plan.
51. I am satisfied that the process of site allocation has followed good practice and the steps set out Planning Practice Guidance. The Parish Council launched a “call to sites” to identify sites where they have suggested development could take place and be deliverable. It appears that some of the sites now been promoted, through the Regulation 16 objections were not put forward at the time the Parish Council were inviting submissions. It set clear objectives and criteria against which those sites were to be assessed and there was public consultation on the site selection. Sites were assessed as “reasonable alternatives” in the SEA report. In the case of landowners who did not put their sites forward at the appropriate stage of the neighbourhood plan making process, I do not consider it appropriate to seek to introduce them at examination stage, where they will not have been the subject to public consultation or sustainability appraisal.
52. In terms of the three sites selected, I consider that the two sites in Ticehurst are well located in terms of access to village amenities and transport links. I have paid special regard to the concerns expressed by Rother District Council and the AONB Partnership Unit to the Singehurst site, which had been the subject of a housing scheme for 16 units, dismissed at appeal in 2017, including on landscape grounds and the impact on the setting of listed buildings. However, the community is perfectly entitled to reach different conclusions when assessing the planning merits of development alternatives and the when balancing the various issues that are required to be considered. The residents’ judgement can legitimately be different to the expressed views of the Planning Authority or indeed a Planning Inspector. That is one of the virtues of a plan led system.
53. Having conducted two site visits, I concluded that the development site is well located in terms of the settlement as a whole, it will mirror development on the opposite side of the road. Its landscape impact will not, in my view, be significant, but the relationship with the listed buildings will require sensitive handling at the development management stage, which is acknowledged in the Plan’s guidelines for the site.
54. As I have said, I attach great weight to the ability of the community to take its own decisions as to where to allocate new housing in the plan area and I am confident that the allocation would not be so incompatible with national or local strategic policies to lead to persuade me that it does not meet basic conditions, compared to say, if the development were being proposed in an area of high risk of flooding. It is evident that there is public support for this development.

55. Turning now to the proposed allocation for nine houses at Wardsdown House, there has been a significant number of letters of objection, opposing its allocation. Some of these representations, raised with me an alleged conflict of interest or referred to the deliberate omission of information as to the nature of the landowner's interests. I need to make it clear that it is not my remit as independent examiner to consider or investigate such matters. My role is solely to examine, whether the plan, as a whole, meets the basic conditions. There are separate avenues for persons wishing to pursue complaints about the actions of persons acting on behalf of the Parish Council. If residents wish to pursue these matters, then I advise them to contact the Clerk of the Parish Council and / or the Monitoring Officer, who will have procedures in place to investigate any alleged impropriety. The allegations have played no part in my deliberations on this plan.
56. The objectors point to the allocation's potential adverse impact on the ancient woodland, Wardsdown Woods, to the north, which clearly is an area of ecological importance. They also refer to the adverse impact of the nine houses on users of the adjacent public right-of-way and argue that the development would detrimentally affect the landscape of the AONB, as well as affecting their privacy and view from their properties. It has also been suggested that the land is affected by previous landfill and is inundated with Japanese knotweed.
57. On my site visit, I saw for myself the relationship between the site and the woodland area beyond and I also walked part of the public right-of-way and I paid especial attention to the housing that already backs onto the lane behind high fences. I experienced for myself the visibility available at the junction of the lane with High Street. There will be matters that will have to be addressed at planning application stage, such as the width of the buffer with the adjacent woodland and detailed layout and access. However, I am satisfied this is a deliverable small housing site, which will complement the housing on the opposite side of the lane. In considering this allocation for nine units, on land which will effectively be fronting on to the lane, it would not in my opinion establish a precedent for future development on land to the rear of the allocation site. That land will continue to lie outside the development boundary, in any event.
58. I am satisfied that the three sites have been allocated in an appropriate manner. The Parish Council has adequately justified its site selection and I am not persuaded that these sites should not be put forward by the local community in their neighbourhood plan.
59. With respect to the sites which had not been allocated, but which have been promoted through objections at the Regulation 16 stage, it is not my role to recommend alternative sites or additional development allocations, when the plan is already exceeding the housing requirements set out in the adopted development plan. The three sites at Steellands Farm on the edge of Ticehurst, would fall within the "green gap" that the neighbourhood plan is proposing and in my view, their development would undermine the objective of that designation. The triangle of

land at Flimwell Crossroads, south of the Royal Oak, also fall outside the proposed settlement boundary and London Road is a defensible boundary. The site to the west of London Road delivers significantly more development than the Core Strategy requires for the Flimwell area.

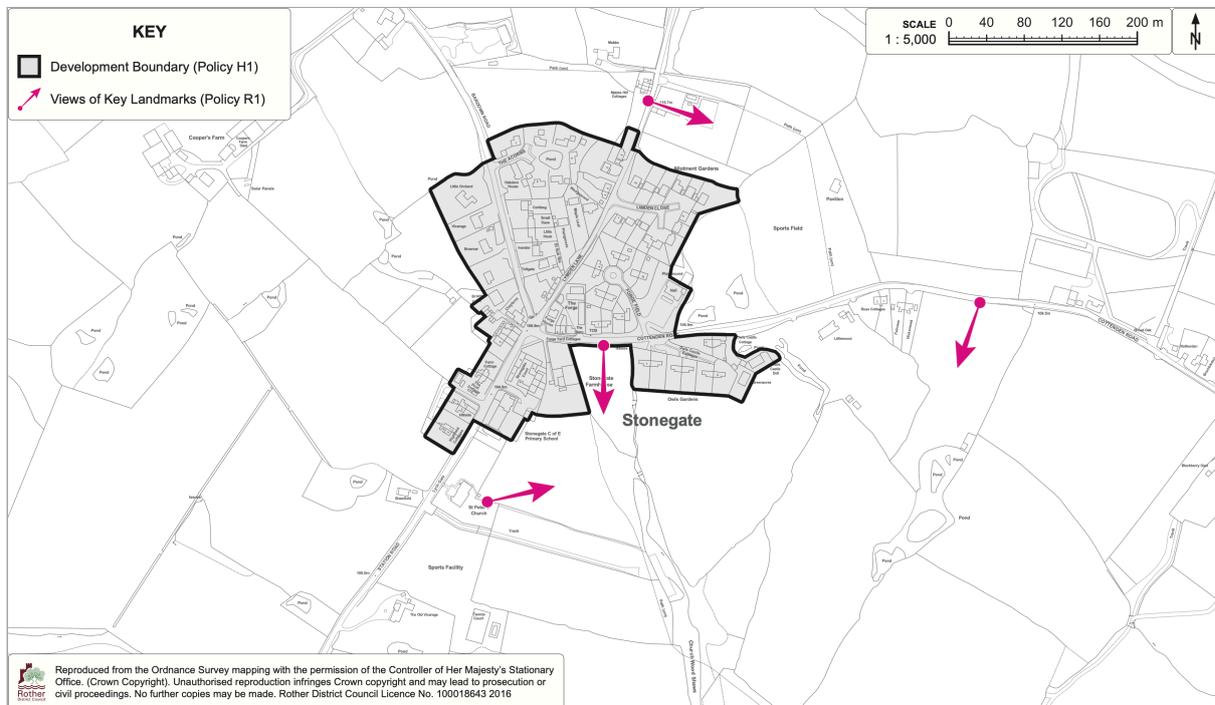
60. The plan is promoting small housing schemes, rather development on larger sites, particularly schemes of under 11 houses. The supporting text does accept that larger schemes can come forward if certain criteria are met, but the wording of the Policy H1 is vague, in that it refers to such sites will be “preferred”. This does not offer certainty as to how a decision maker should be expected to determine planning applications for larger development. I know that the Spatial Plan policy seeks to restrict housing sites to 10 or under within the settlement boundaries. However, this is an arbitrary figure which pays no regard to the size of the application site. My concern is it that will it will lead to some sites being developed for larger houses, in order to keep below the threshold of 10, rather than the plan supporting the right development for the size of site in question, having regard to the site’s context. A well-designed development can meet the very concerns which led to the community, supporting the threshold of 10 or under. A properly designed scheme is capable of being assimilated into the local environment and for example, 6 units on an acre site could be more out of keeping than a scheme of 15 units if the type of houses were large detached executive style rather than being typical of housing in the vicinity. I noted that the recently consented developments are for well over the threshold of 10 and I consider that these schemes can equally make a positive impact on the local economy and I have no reason to believe that they will not be successfully assimilated into the local community in time.
61. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend editorial changes to the supporting text. These changes are likely as a result of my recommendations, so that the plan must still read as a coherent planning document.
62. Following the publication of this report, I would urge the Parish Council and Rother planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. That will also include making changes to Map numbers where I have recommended some maps be omitted or added.

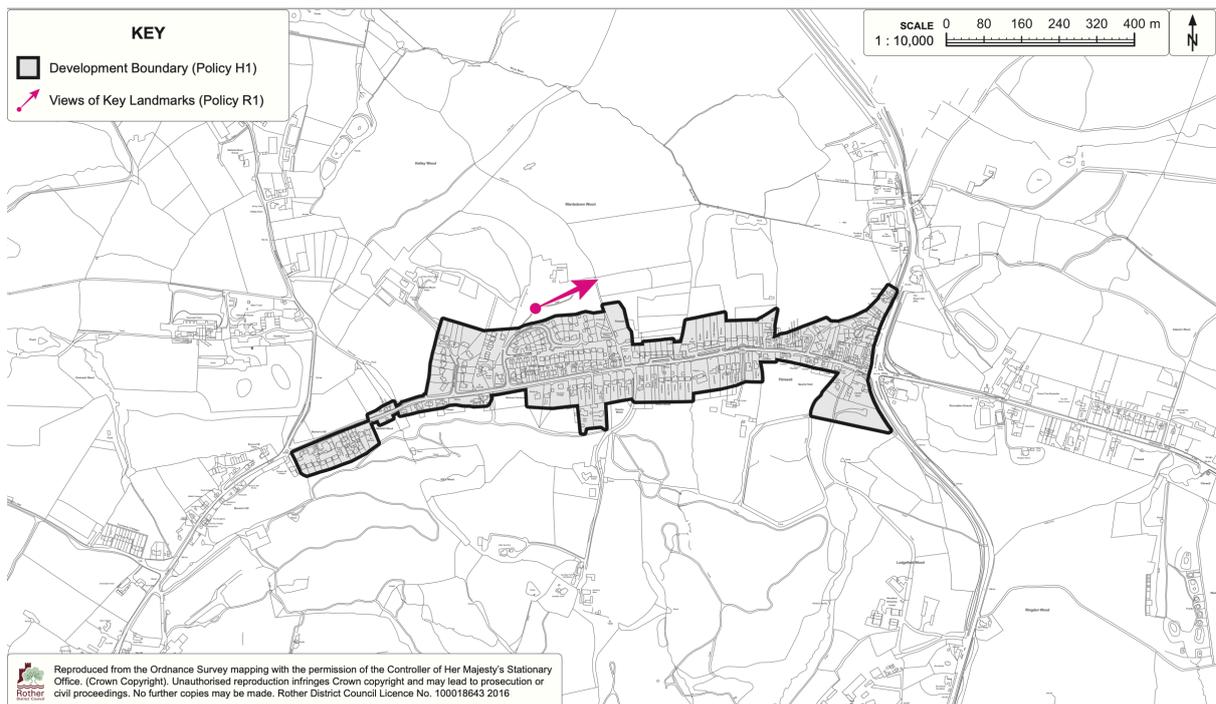
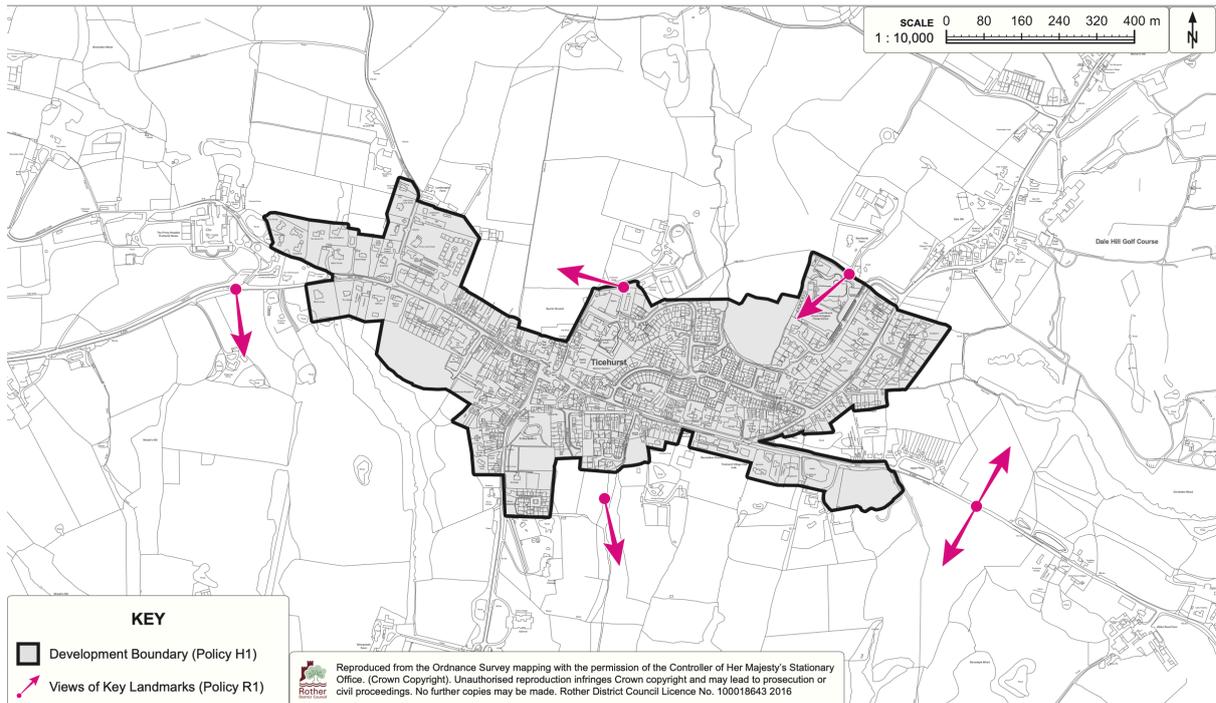
## **The Neighbourhood Development Plan Policies**

### **Policy R1: Area of Outstanding Natural Beauty**

63. The High Weald AONB enjoys the highest level of landscape protection, in-line with paragraph 115 of the NPPF (2012).

64. The second element of the policy refers to the need to ensure that development does not have “an unacceptable adverse visual impact on... views of key landmarks”. To enable the policy to be used with confidence, it is important that decision-makers know which key viewpoints are considered to be important to the community. The supporting text refers to the views, as defined in the Rother Landscape Assessment dated August 2009. However, it goes on to refer to views “to and from three ridges, Stonegate, Burwash and Brightling” which are not shown on any maps. I will be recommending, based on the recommendations of the Steering Committee members, that the views the policy is seeking to protect, are as shown on the following maps.





65. The final element of the policy refers to documents that are “encouraged” to be submitted with the planning application. It is not within the remit of a neighbourhood plan to require which documents should be submitted to accompany a planning application. These procedural matters are set out in the District Council’s Local Validation Checklist and that document does not require, or indeed “encourage” the

submission of a Landscape and Visual Impact Assessment for sites within Rother District's section of the High Weald AONB. That document does set out specific requirements as to when the submission of an Ecological Survey and Report will be required. The requirements for an applicant to submit a Design and Access Statement is set out by regulation, namely the Town and Country Planning (Development Management Procedures) Order 2015. Whilst the policy is written in terms of an application "should preferably be accompanied" by these documents or the submission of a Design and Access Statement "will also be welcomed", nevertheless it does raise expectations and indeed an implied obligation on the applicant.

66. It would be inappropriate, to include for one part of the development plan a requirement for specific documents to be submitted in one part of Rother District. I accept that a Landscape and Visual Impact Assessment could be used by an applicant to demonstrate that there is not an adverse visual impact arising from the proposal but equally it could be demonstrated in other ways.
67. I will therefore be recommending that the final element be removed from the policy as it is essentially a procedural aspiration and can be moved from the policy to the supporting text.

### *Recommendations*

***In 2) after "of key landmarks" insert "shown in Maps X, Y and Z"***

***Delete paragraph 3)***

### **Policy R2: Maintaining Green Gaps between Settlements**

68. There are two themes to my concern relating to this policy. Firstly, I have reflected as to whether the policy performs a planning purpose which is justified, considering the land outside the settlement boundaries is already classified as countryside, which offers some form of policy protection from development and is also protected by being within area of the highest level of landscape protection. The second strand is whether it is appropriate for the neighbourhood plan to seek to resist *all* development within these green gaps.
69. Turning to the first point, part of the reason for defining settlement boundaries is to maintain the identity of individual settlements. It marks the interface between where the presumption in favour of development within the built-up area applies and the countryside beyond, where there is a presumption against most forms of development. That is not saying development is completely ruled out e.g. development associated with countryside uses such as agricultural and leisure is allowed. Similarly planning policy can allow development on the outer edges of a settlement as "exception sites".
70. The key question is whether there is a legitimate risk of coalescence were this policy not put in place, which justifies the additional restriction on development beyond that set by Local Plan policy. It is pertinent that in its Regulation 16

comments, Rother District Council supported the identification of a strategic gap between Ticehurst and Flimwell, but it did not support the other four gaps which were being proposed by the neighbourhood plan. I sought clarification of the reasons why the LPA was adopting a different approach in terms of the gaps. As part of its response, the District Council produced a map, which convinced me of the risk of coalescence by referencing sites where development had been promoted, in one form or another. It argued that the other areas of countryside between Ticehurst and the other settlements are not subject to such pressures.

71. When I conducted my site visit, I made a point of assessing for myself the nature of the intervening land between the various settlements in the plan area. I perceived that the gap between Ticehurst and Flimwell is very different to the other proposed gaps. The landscape is far more fragmented with a significant amount of intervening development, whether it be residential properties, the public house or the golf club complex at Dale Hill. As such I consider that the risk of the coalescence through piecemeal and incremental development along this road is much greater. There also appears to be a multiplicity of ownerships.
72. My sense is that the other areas identified are far less urbanised than the gap between Ticehurst and Flimwell and the landscape is generally dominated by large agricultural fields that are characteristic of the High Weald. If any of the intervening land were to be developed, either on the edge of settlements or remote from the villages, I do not consider that an individual development would in the same way lead to the same risk of coalescence, to the extent which would threaten the separate identity of the different settlements.
73. I conclude that there is insufficient justification to adopt a more stringent policy framework for land within the corridors, beyond that shown in Map 5. The other corridors are already covered by the presumption against inappropriate development in the countryside as set out in the adopted Core Strategy Policy OSS2 – Use of Development Boundaries, Policy RA3 - Landscape Stewardship as well as Policy DEN1 and DEN2 in the emerging Development and Site Allocations Local Plan supplemented by the national presumption in favour of protecting Areas of Outstanding Natural Beauty set out in paragraphs 115 and 116 of the NPPF (2012).
74. I will therefore be concluding that a convincing case has been made to justify the imposition of additional planning control in the area shown on Map 5, but I am not persuaded by the evidence submitted by the Parish Council, that there is a realistic risk of coalescence between Ticehurst and the communities of Three Leg Cross, Wallcrouch and Stonegate (notwithstanding that part of that gap would fall within the neighbouring Etchingham parish). National policy is that any neighbourhood plan policy should be supported by proportional evidence and without that, I do not consider that the policy would meet basic conditions.
75. The second element I need to address is the actual policy requirement, as it relates to development within any of the “green gaps”. As submitted, the policy states that

the gap between Ticehurst and Flimwell will be free of further development (apart from the essential utility infrastructure) and in the case of the other areas “Development... will be resisted”.

76. I raised in my Initial Comments, the question as to whether the intention was that the plan seeks to rule out all development e.g. residential extensions or ancillary development say at the Golfing Centre or at the Priory Hospital. In their response, the Parish Council confirmed it was not their intention to resist all development. Rother DC has produced a revised wording for this policy which Ticehurst Parish Council supports. This now states: -
- “Within these gaps, development will be carefully controlled and only be permitted in the exceptional circumstances. Any development must be unobtrusive and not detract from the openness of the area and, unless it is essential to meet necessary infrastructure needs and no alternative visible site is available.”*
77. I am not persuaded that adopting the threshold of development only being “permitted, in exceptional circumstances” is a proportionate response to the threat of coalescence. There will be developments that can legitimately take place, which would not undermine the purpose of defining the “green gap,” namely to protect the openness of the area by filling in any intervening gaps. I consider that objective of the policy can be achieved by allowing development that it is “unobtrusive” and which “will not detract from the openness of the area”.
78. Subject to these amendments I consider that the revised version of the policy would meet the basic conditions.

#### ***Recommendations***

***Replace the policy with “Development with in the area shown as the Ticehurst – Flimwell Green Gap on Map 5 will be carefully controlled and only be allowed where the development is unobtrusive and does not detract from the openness of the area.”***

***Delete Maps 6- 9***

#### **Policy R3: Protect and Enhance Green Space**

79. It is likely that a neighbourhood plan policy will be used in a situation where it is outside the neighbourhood plan document itself, for example, it could be quoted on planning decision notices or in appeal documents. It will not always be relevant to refer to “the areas shown on the relevant plans below”. I consider that it will be clearer if the policy named the local green spaces that it is designating and refer to their locations as shown on Maps 10,11 and 12.
80. I am satisfied that all the proposed local green spaces have been justified with appropriate evidence as to why they are “demonstrably special” to the local community, apart from the area of highway at the south west quadrant to the junction of the A21 and B2087. I do not consider that this verge will be seen as

having a particular importance to the local community or meets the criteria set out in Paragraph 77 of the NPPF. I had come to this conclusion based on my site visit, but I am reinforced in that view having regard to the representations of the adjoining local authority which indicated that there could be a case for improvements to the highway alignment at this junction.

### *Recommendations*

**Replace the first sentence with “The following areas, which are shown on Maps 10, 11 and 12, are designated as Local Green Space:**

- **Land to the rear of Hillbury Field**
- **Sports Ground off Pickforde Lane**
- **Allotments off Springfields**
- **Playground, open space and allotments off Farthing Hill**
- **Land off farthing Hill and south of Banky Field**
- **Ticehurst CEP School Playing Field**
- **Pond area and meadow area off Pashley Road and Meadowside Cottages**
- **Recreation Ground, High Street**
- **St Mary’s Church Ground and cemetery**
- **Land rear of Old Wardsdown, Flimwell**
- **Sports Ground High Street Flimwell**
- **Stonegate CEP Playing Field, Stonegate**
- **Sports Field, Cottenham Road, Stonegate**
- **Pond and woodland, Cottenham Road, Stonegate”**

### **Policy R4: Develop Footpath and Cycle Network**

81. A neighbourhood plan policy should be a policy that is capable of being used to determine a planning application. The first numbered point is a statement setting out the intentions of the Parish Council and landowners, to investigate coming forward with a pedestrian route which links Flimwell with Ticehurst. That is not a policy to cover the use and development of land, but a statement of the proposed action to be taken by the Parish Council. As a statement of intent, it can be included in the neighbourhood plan but not as a development plan policy. I would suggest it becomes a community action.

82. The second element of policy would allow a decision maker to place considerable weight on the fact that the development provides a footway and cycle way when considering a future development which could undermine the green gap between Ticehurst and Flimwell, as the policy says that the plan will support development that provides such a route. The aspirations of the proposal can be achieved by a

more general policy stating that the development of footpath and cycle routes which link Flimwell, Ticehurst and Stonegate will be supported.

83. The final element of the policy deals with footpath widening and resurfacing. These are not matters that would require the submission of a planning application. This part of the policy is not one covering the use and development of land. These matters fall under the jurisdiction of the Highway Authority, rather than the Local Planning Authority. Again, this aspiration can be included as a community action.

#### ***Recommendations***

***Delete 1) and 4)***

***Replace 2) with “The development of footpath and cycle routes which link Flimwell, Ticehurst and Stonegate will be supported.”***

#### **Policy R5: Support Biodiversity**

84. The policy again requires documents to be submitted alongside planning applications. As previously stated this is a matter which falls under the auspices of the Local Validation Checklist and it is not a matter that can be prescribed by a neighbourhood plan policy. I will recommend that this element of the policy be removed.
85. The final two elements also will not be applicable in every case. Some residential development may take place in the location where there is no possibility of connecting the site, with another wildlife habitat. This eventuality can be dealt with by the insertion of a caveat, “where appropriate”. Equally some on-site green infrastructure could be, for example, a new hedgerow or tree planting, which would not always require a management plan or long-term funding. As an example, they could form part of a new resident’s garden area. Inserting “where it is appropriate” would cover the eventuality.
86. Beyond this I consider the policy meets basic conditions

#### ***Recommendations***

***In 1) delete the second sentence***

***In 4) after “should” insert “where appropriate”***

***In 5) after “should” insert “where it is appropriate”***

#### **Policy E1: Protect and Enhance Local Services and Facilities**

87. This policy covers a range of services, from local shops and businesses to public houses and restaurants. The submitted policy is too rigid in that it does not recognise that some businesses may close and the policy needs to include a mechanism to test the viability of the continued use of those premises, so that the villagers are not faced with a situation where a property stands empty for the

duration of the plan period, because a new business is not viable. I will therefore introduce an element of demonstrating market testing, which would then bring the policy into line with the approach that the District Council is promoting in Policy DC01: Retention of Sites of Social or Economic Value, in the emerging Development and Site Allocations Local Plan. I will also recommend that the two related policies, as set out in 2) and 3) be combined as they essentially cover the same topic. It should also be noted that some uses may be lost through changes of use that do not require planning permission.

#### ***Recommendation***

***Replace 2) and 3) with “Existing retail and local services will be protected. Proposals that would result in their loss, particularly within the Ticehurst Village retail core (Map13) will not be supported unless it can be demonstrated that there is no reasonable prospect of its continued use or use for an alternative commercial or community use, based on evidence that the premises have been actively marketed for at least 18 months.”***

#### **Policy E2: Support Tourism and Development**

88. I consider that the condition within the policy text, requiring the proposal to meet the concept of sustainable rural tourism and the production and consumption of local produce, places greater restrictions on tourist development than is set out in the Core Strategy, Policy EC6 which generally encourages tourism activities and facilities. The policies set out in the local plan, referred to in the second condition, already cover the Ticehurst plan area and there is no value in the neighbourhood plan duplicating them.
89. I appreciate that the Parish Council wishes to encourage sustainable rural tourism and I will therefore recommend a revised wording that does not seek to restrict tourism and recreation but refers to proposals that meet the concept of sustainable rural tourism will be “particularly welcomed”.

#### ***Recommendations***

***Replace “subject to the following conditions: 1)” with “especially where”.***

***Delete 2)***

#### **Policy E3: Promote the Diversification of Agricultural Businesses**

90. I have no comments to make on this policy, which meets basic conditions.

#### **Policy E4: Protect and Enhance Existing and Encouraging Additional Commercial Employment Sites.**

91. This policy deals with two scenarios. The first paragraph deals with existing sites, which the policy states should be protected or enhanced, by which I understand will

be either extended or altered, within their existing site boundary. The remainder of policy deals with new employment sites or extensions of sites onto the adjoining land. The two elements propose different thresholds, in terms of how a decision maker assesses the effect on neighbours. In the case of considering an existing enterprise, a planning application for its enhancement should not be approved according to the submitted policy, if there were *any* adverse impacts on neighbours. Under the second scenario a new enterprise could be granted planning permission so long as the impact on neighbours was judged not to be *significant*. I am not convinced that having different thresholds of harm, between the two scenarios, is justified and I believe that the appropriate threshold would be for there should not be a “significant adverse impact”, as it is very likely that any development could have an impact, but it would only be material to the acceptability of a proposal, if the impact was shown to be “significantly detrimental to residents’ amenities”.

92. In terms of the criteria regarding impact of the development on highway network, the Secretary of State’s policy is that “Development should only be prevented or refused on transport grounds where it is shown that the residual cumulative impact of development is severe.” I will be recommending a modification so that the policy reflects this Secretary of State advice which is set out in paragraph 32 of the NPPF (2012).
93. As with previous policies, the policy attempts to dictate which documents should accompany planning applications. Rother’s Local Validation Checklist requires, in any event, a Transport Assessment or Transport Statement on “all major developments in involving traffic generation”.
94. In terms of the third criterion, I am unsure whether reference to service vehicles “impacting on traffic circulation” relates to the internal site layout or whether is concerned with situations where the highway has to be used for manoeuvring/servicing. I consider that servicing areas should be commensurate to the size of the premises and there may be very occasional deliveries by the largest vehicles to smaller premises that cannot be realistically be accommodated on sites. Small rural workshops should not be required to provided turning facilities on site for the largest HGV.
95. Furthermore, I do not consider that it is justifiable to refer to “Only limited expansion... in minor lanes” will be allowed, as these lanes may well be used by delivery vehicles serving the farms in the area. Such matters are best judged against the second criteria of the policy i.e. the impact on the highway network. If a proposal passes that test, it should not then be frustrated by the requirement which restricts the expansion of a successful enterprise on the grounds that it is accessed by minor lanes. That assessment will consider the adequacy of the highway network that serves the development. I will therefore be recommending that that criterion be deleted.
96. If amended in line with my recommendations I consider the policy will meet the basic conditions.

### **Recommendations**

***In the first paragraph before “adverse” insert “significant”.***

***Replace 2) with “The residual impact of the proposed development on the highway network, after any mitigation, should not be severe”***

***Delete criterion 3)***

### **Policy E5: Improve Essential Infrastructure**

97. I do not consider that for new and improved infrastructure should be required to have to show that it meets the objectives of the neighbourhood plan to be granted planning permission. Subject to clarifying as minor point I consider the policy does meet basic conditions.

#### ***Recommendations***

***Delete “meeting the objectives of this plan and”***

***After “policies in the” insert “development”.***

### **Policy H1: The Spatial Plan**

98. This policy is entitled The Spatial Plan. As this policy lies within the housing chapter of neighbourhood plan, there could be ambiguity as to whether the policy relates to *all* development or just residential development. I have concluded that the intention is the latter and I will recommend that this is explicitly addressed in the first element i.e. the strategy is to focus *residential* development in the existing villages.
99. There is an inbuilt inconsistency in the second element of the policy. The first part of the policy states that the intention is that new homes should be concentrated in existing three villages, but how would a decision maker deal with an application within the settlements of Flimwell or Stonegate, when the second element of the policy points out that the main focus is to be Ticehurst Village. I believe this poses a decision maker with a dilemma. and I consider that this part of the policy serves no useful purpose in determining planning applications but if moved to the supporting text could form part of the justification for allowing the allocation of the majority of new homes to Ticehurst.
100. In the light of my comments in respect to the first element of the policy, I will also insert “residential” before “development” in the third paragraph. In order to provide clarity as to the requirement to demonstrate a need for a countryside location, I will cross-reference the policy with Policy RA3 of the Core Strategy.
101. The fourth element of the policy dealing with the size of housing schemes, I appreciate has been included as a response to public comments, but I am concerned that one unexpected consequence of setting a threshold is that it could prevent the delivery of sustainable development, which is one of the basic

conditions. The policy offers no certainty as to how a planning application will be determined. The policy refers to “smaller schemes of 10 or less will be *preferred*”. The supporting text in paragraph 6.18 states larger developments “*might* be supported” if they show that they will not adversely impact on the AONB setting of the parish, can demonstrate a clear understanding of the wider context at this scale of the whole development, being mitigated by adopting good design responses showing an understanding of the immediate context. My view is that the planning system would expect that these considerations would equally relate to developments that are under 10 units.

102. By establishing a threshold for the quantum of development to a particular number of units rather unrelated to the size of sites, will naturally encourage the building of fewer but larger units, which will mean that development falls under this the threshold of 10 units, rather than developing a site to its natural capacity, and providing the size of new homes that are required, based on the assessment of housing need. It could also mean that sites may not be developed in a way that makes efficient use of developable land. This is not good planning practice as it inevitably means that more greenfield sites are required to deliver the homes the community needs, if developable land is effectively “wasted”.
103. In trying to respond to local residents “preferences”, I propose to recommend that schemes of 10 or less will be *encouraged* so long as it meets the housing needs of the parish, as set out in Policy H3.

#### *Recommendation*

***In 1) insert “residential” before “development”***

***Delete 2)***

***In 3) insert “residential “before “development” and at end add “as required by Policy RA 3 of the adopted Rother Core Strategy”***

***In 4) replace “preferred” by “encouraged so long as it meets the housing needs as set out in Policy H3”***

#### **Policy H2: Housing Site Allocation**

104. This has probably been the most controversial aspect of this examination with Rother District Council objecting strongly to the allocation of the site at Singehurst and local residents objecting to the proposed allocation at Wardsdown House in Flimwell.
105. I note that the neighbourhood plan is aiming to be delivering more housing in the Ticehurst area than is required by the Core Strategy, having taken into account the planning consent already granted. The plan is allocating one site in Flimwell to meet that settlement’s requirements.

106. As previously stated, I am satisfied that the Parish Council has approached the site allocation exercise in an objective and straightforward manner. It issued a call for sites and then has assessed the sites against an objective set of criteria, as part of the SEA Environmental Assessment process as set out in the Environmental Report. I am satisfied that plan has justified its choice of sites. I also accord great weight on the fact that neighbourhood planning places the onus on Parish Councils and Neighbourhood Forums, to be able to allocate sites for the new housing, where required by the strategic policies in the Local Plan. The neighbourhood planning system allows the community to reach a different conclusion regarding the choice of sites, to the professional judgements arrived at by the local planning authority. That makes neighbourhood plan such a powerful tool, as it empowers the local community to decide for itself where and what type of new housing, should be built within their area.
107. I have dealt with the site selection process in my comments in the Plan Overview section of this report.
108. I consider that the 3 allocations are justified and I conclude that the policy meets the basic conditions.

### **Policy H3: Mix of Housing Sites & Sizes**

109. I am satisfied that the policy is based on sound evidence and is broadly consistent with the Local Plan Policy LHN1. However, there is an issue in that this policy establishes housing mix and tenure, but Policy H4 only requires the on-site provision of affordable houses on sites of more than 10 units, with a commuted sum being payable on schemes of 6 to 10 homes. I therefore consider that as this particular policy has no trigger, in terms of the number of units, it currently lacks the clarity as to whether a particular mix of tenures is required for those schemes of under 10 units, which would undermine national policy and hence the basic conditions. I will therefore propose that reference to tenure be removed as it is dealt with by a Policy H4.

### **Recommendation**

***In 1) replace “, sizes and tenures” with “and sizes”***

### **Policy H4: Affordable Housing**

110. The submitted wording refers to the policy being in accordance with NPPF (2018). It also refers to adopted local planning policy. Policy LHN 2 sets a threshold of five units where affordable housing is required to be provided. That policy, predated the Written Ministerial Statement revising national guidance on planning obligations which changed the threshold to 6, where financial contributions would be required for rural areas. That threshold is now being advanced in the draft Development and Site Allocations Local Plan. However, that draft policy requires *on-site* provision.

111. Secretary of State advice, as set out in the Planning Practice Guidance (Reference ID: 23b-023-20190315), is that financial contributions should be sought from schemes that are above the threshold set in plans in respect of rural areas. Conversely, I am also aware that the latest versions of the NPPF, in paragraph 62, presumes that affordable housing should be provided on site, unless it meets the two criteria set out. However, under the terms of paragraph 214 of the latest version, plans, such as Ticehurst, that were submitted before 24<sup>th</sup> January 2019, should be examined against the policies in the previous version of the Framework. In terms of meeting the basic conditions, I note that the districtwide policy which sets a threshold for on-site provision, is only a draft local plan policy, which will supersede Core Strategy Policy LHN2 in due course. It has not yet been examined and may be the subject of unresolved objections. The policy can only be given limited weight. I will therefore recommend the retention of the substantive part of the policy, as submitted, but will refer to the payment of a “financial contribution” rather than a “cash payment”. Once the Development and Site Allocation Local Plan is adopted it will supersede this neighbourhood plan policy.
112. The second part of the policy, which even though it is caveated by including “as far as possible”, requires that affordable housing should be allocated by persons with a strong connection to Ticehurst. This is not a policy for the use and development of land to be used to determine a planning application. It is a policy for how social housing is to be allocated by the Housing Authority. It should therefore be removed from the development plan.

#### *Recommendations*

***In 1) delete “In accordance with NPPF 2018 (para 63) and Rother District Council planning policy”.***

***Replace “cash payment” with “financial contribution” and omit “which is Rother District Council policy”***

***Delete 2)***

#### **Policy H5: Design of All New Buildings**

113. I have no comments on this policy and I would commend the Parish Council for the quality of the design advice contained in the Design Guidance section of this neighbourhood plan

#### **Policy H6: Conservation and Heritage**

114. I do not consider that the first part in policy is an accurate statement based on my perception during my site visit. Clearly there are areas in the plan area which one can describe it as being “an historic environment”, but equally there are parts which could not be described as such. As this part of the policy is not supported by

evidence, it should be deleted. The impact on the landscape is already covered by the Policy R1.

115. In terms of the second paragraph the wording needs tightening as it only currently requires an assessment of the impact of development on the conservation area's setting, rather than the impact on the conservation area itself.

***Recommendations***

***Delete 1)***

***In 2 “replace” setting” with “character”***

**Policy INF1: Improvements to Village Centres**

116. I have no comments to make on this policy.

**Policy INF2: Community Energy Project**

117. I have no comments to make on this policy.

**Policy INF3: Community Areas in Housing Developments**

118. I consider that the requirements for the provision of a locally equipped area for play(LEAP) for new housing development is in line with accepted national guidance e.g. as set out in the Fields in Trust documents. With regards to the requirement to include a LEAP in phases of development of 10 units or less, I do not consider that they this level of provision would be justified. The policy appears to be contradictory.
119. I do not consider that the arrangements for ongoing maintenance responsibility or future ownership are matters that need to be included within a planning policy as these are matters to be the subject of future negotiations. The issues can be highlighted in the supporting text. I will propose an alternative wording.

***Recommendations***

***In 1) replace “In developments of less than 10” with “In developments of 10 or less” and delete “, or where an individual phase comprises 10 or fewer dwellings”***

***Replace 2) and 3) with “All new outdoor play spaces, open spaces, formal outdoor sports and play facilities shall be subject to appropriate arrangements for their long-term management and maintenance”***

**The Referendum Area**

120. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the

area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Ticehurst Neighbourhood Plan as designated by Rother District Council on 2<sup>nd</sup> November 2015, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

121. I must congratulate Ticehurst Parish Council for preparing a locally distinct neighbourhood plan, which seeks to deliver on the expressed priorities of the residents of parish of Ticehurst. The plan will provide a sound basis for dealing with planning applications in the parish in the next few years.
122. To conclude, 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, as amended, be made.
123. **I am therefore delighted to recommend to Rother District Council that the Ticehurst Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
5<sup>th</sup> April 2019