

## Sedlescombe Parish Council Report on the Sedlescombe Neighbourhood Plan Examination

### Background:

1. The Sedlescombe Neighbourhood Plan (SNP) has been in development since early 2013. It passed its first examination in early 2015 but was withdrawn in late 2015 as the Examiner's recommendations effectively opened up the whole boundary of Sedlescombe for development and recommended changes to the policies which were entirely opposite to the wishes of the majority of the community and the whole concept of the community determining where housing should be located.
2. At the time the first Plan was examined, Rother District Council (RDC) had a 5-year supply of housing which effectively protected the village from speculative development on the edge of the village development boundary.
3. During the course of the planning process a developer sought approval for development on a site not included in the SNP for development. The same site in the SNP was designated as a Local Green Space. The application was refused at appeal because RDC had a 5-year supply of housing at that time and the application was also considered premature given the SNP was at an advanced stage.
4. Work on a modified Plan was restarted in early 2016 in a significantly changed environment. RDC had lost its 5-year supply meaning development could be approved if considered sustainable development. Currently it only has a 3.1 years supply as at the last formal report.
5. A new application was submitted to RDC for development on Street Farm. This was again against the SNP which reflected significant community support. This site was allocated as a Local Green Space in the SNP. Whilst the Examiner of the first Plan had rejected Street Farm's designation as a Local Green Space, after that examination new evidence had come forward through other Neighbourhood Plans which suggested the Examiner had made an incorrect judgement.
6. The application for Street Farm came before RDC's planning committee a month after the SNP had been submitted to RDC. Planners recommended refusal, but the Committee approved the application despite being in conflict with the emerging SNP and the problems this would entail. Reasons cited included benefits of the gift of land, affordable housing and the lack of a 5-year housing supply. It should be noted that the approval only improved RDC's housing shortfall of 944 by 16 houses making little impact on the problem faced by RDC.
7. As the SNP was now in the hands of RDC, the SNP continued to move through a further consultation to examination whilst SPC sought a Judicial Review of the planning approval for Street Farm.
8. Ultimately the High Court decided that because RDC did not have a 5-year housing supply they had not erred in law, so no Judicial Review was granted.

9. The impact of this on the SNP would be to effectively create an oversupply of 16 houses in Sedlescombe versus the allocation of a minimum of 35 houses set by RDC.
10. As a result, SPC considered it appropriate to ask the Examiner (who is a QC and a retired judge) if it was possible to remove one site from the SNP to rebalance the number of houses allocated. The Examiner, in his report, determined it was not within his power to make this change.
11. To make any further changes to the Plan without material new evidence would require the Plan to be withdrawn and taken back to a pre-regulation 14 stage of development. The Examiner did not recommend this.

#### The decision options for Sedlescombe Parish Council (SPC)

12. To allow the SNP to move forward based on the Examiner's recommendations, or
13. To withdraw the SNP to remove or change sites, or
14. To withdraw the SNP in its entirety.

#### Summary of the main recommendations of the Examiner's report

The Examiner:

15. Agreed the SNP was in general conformity. (Para 103, Para 115)
16. Agreed the SNP met the basic conditions. (Para 178)
17. Agreed the SNP contributes to sustainable development. (Para 101)
18. Was enjoined to delete policy 4 but could not under his powers. (Para 135)
19. Recommended not withdrawing the SNP again. (Para 136)
20. Recommended the SNP move to referendum. (Para 178)

#### More detailed analysis of material recommendations within the Examiner's report

Issues raised by RDC and other statutory bodies:

21. Access to sites at north of village: RDC had questioned the accesses but at the same time accesses had been checked and agreed with the Highways Authority. The Examiner modified policies to ensure each site's access did not compromise the other site regardless of when they were built. (Paras 143, 157,161)
22. Street Farm: The Examiner overruled the previous Examiner on the Local Green Space (Para 119, Para 177) based on the new evidence provided by SPC after the first examination which RDC had refused to accept.
23. Gregory Walk: Modified to read a minimum of 6 houses and that the existing house could remain if practical. (Para 126)

24. Balcombe Green: RDC and Natural England argued against this policy despite the site being in RDC's SHLAA. The policy was removed as was agreed at the examination, but the boundary change remained. (Para 168)
25. Pestalozzi: Minor modification of policy to ensure any priority habitat is protected. (Para 132)
26. The Strategic Environmental Assessment (SEA) was accepted by the Examiner: RDC (and MJH Homes) had wrongly argued the SEA was not a fair representation of the sites. However, this was dismissed by the Examiner at Para 91: the Examiner says, '*I am therefore satisfied that the SEA report is not defective*'. The SEA was also supported at Para 93.

#### Issues raised by residents

27. One owner of a garden at Balcombe Green argued against policy 9 as they were not prepared to release their land even though the proposed development did not affect their land. In addition, an adjoining neighbour argued against both the policy and the boundary change. It was agreed at the examination to remove the policy but RDC argued that the boundary should stay as per the SNP effectively bringing the gardens behind Balcombe Green into the development boundary and thereby allowing development under normal planning: a compromise for both residents and land owners and RDC. (Para 120) SPC has always been neutral on this policy as it did not allocate housing.
28. Some objection to land at the north of the village by residents who live at the north end of the village but were not directly affected. PC responded to this after the Street Farm approval, but this has to be reviewed given the inability of the Examiner to delete policy 4. (Para 135)
29. Objection by two residents who appeared at the oral hearing in July 2017 on the SNP process and the regulation 14 consultation. The Examiner considered the consultation process to have been carried out in accordance with the regulations and commented on the comprehensive nature of the consultations and had no criticism of the process. At Para 52 and Para 53 the Examiner noted that '*Consultation dated September 2016 was extremely thorough*'.

#### Previous Examiner comments

30. The previous Examiner's approach to development anywhere along the boundary subject to sustainability and completely against the concept of Neighbourhood Planning was reversed. (Para 117)
31. The previous Examiner's approach to determining whether Street Farm should be designated as a Local Green Space was reversed. (Para 119)
32. The Examiner noted that SPC had taken up all the minor amendments recommended by the previous examiner.

## New Issues that have arisen since October 2017

33. The government has announced a new approach to determining housing numbers to bring consistency across the country. Currently the proposed date for implementation is March 2018. When brought into force this will potentially increase the number of houses required in Rother by 40% (see attached article from the [Planning Resource](#) web site and [RDC's submission](#) to the DCLG's consultation '[Planning for the right homes in the right places](#)'). In addition, where Councils have not provided proper allocations across Neighbourhood Plan areas the number of houses required would be simply calculated on a percentage of the population basis\*. Whatever happens and despite RDC's objection through its own consultation submission, it is clear that there will inevitably be a further increase in the demand to build new houses in the near future particularly in the South East. RDC is particularly exposed as it has been identified as a problem authority given its current shortfall of 944 houses and that it is building homes at half the required rate. RDC's Core Strategy has failed to deliver housing in Bexhill which was the mainstay of its Plan. That will ultimately place pressure on rural areas.
34. [Development in Rother District has and will become more difficult to defend particularly as, whilst RDC's housing position could improve, it is highly unlikely that RDC will be able to recover their 5-year supply.](#)
35. The impact of this will be to potentially increase Sedlescombe housing numbers to between 49 and 85 houses.
36. [However, with a Neighbourhood Plan in place and as long as RDC's housing supply remains above 3 years we will be afforded a higher level of protection against both higher housing numbers and speculative development.](#)
37. SPC should also be aware that the open space at Street Farm is not necessarily protected against further development. SPC asked RDC for a commitment to pass the land to SPC once the clause in the Section 106 was triggered. RDC passed a resolution in October 2017 to pass the land to SPC but only in principle and with a caveat that it may only be a lease and no term has been specified. In addition, the land promised to the school will revert back to the developer if not taken up within 10 years. The remaining (Open Space) land at Street Farm remains under threat of future development as confirmed by the RDC Executive Director of Business Operations at a meeting with the Chairman and Vice Chairman of SPC in the 2<sup>nd</sup> quarter of 2017. The overlaid protection of the dedication of this land as a Local Green Space through the SNP will strengthen this land protection against further unwanted development in this area of the village.
38. [The main issue is that our Plan when added to the approval at Street farm effectively takes our housing allocations up from 35 to 51 and that concerns some residents. The Examiner could not delete policy 4 as requested to rebalance the numbers. The options are to progress or to withdraw the Plan to then remove policy 4.](#)

\* The government has announced plans to streamline how housing numbers are assessed. Their approach is simply to take the population of an area and allocate housing as a percentage of the total. Whilst RDC has objected to this rightly on the grounds of AONB/SSSI/Ancient woodland it is a real possibility all village numbers will be increased by some level. Currently Sedlescombe has 1.5% of Rother's population (1372 over 93551). On the basis of the new calculation our allocation of the 5700 houses required by RDC would be 85 not 35. It is likely that RDC will be able to defend a lower number but still a number that will be an increase on the current 35. The baseline increase in Rother proposed by the government in its 'Planning for the right homes in the right places' consultation will increase RDC's requirement by 40% on the current baseline.

39. In practical terms to withdraw the Plan and rework it would add a further 18 months to the planning process as it did before when we resubmitted.
40. This may also be very frustrating for the majority of the community and this change might also not be supported by RDC as they are under pressure for more housing due to their own shortfall across the District, but more importantly upcoming changes from the government on increased housing requirement.
41. If we chose to withdraw and redo the Plan all the sites included in the current plan including policy 4 could be developed on the very same basis that Street Farm was. So, we may end up in exactly the same position as we have with Street Farm. That is, a Plan which does not support a site but that site having gained planning permission. We would also lose the higher level of CIL on any permissions granted in the interim period. At the current level Sedlescombe will be entitled to an estimated £200,000 in CIL with its Neighbourhood Plan in place. Without the Plan this figure will reduce to a maximum of £120,000 which could also be reduced to a lower figure. It is important to ensure we gain the maximum benefit for Sedlescombe given the complete lack of infrastructure development that is planned by either the District or County Council for the village.
42. In addition, even if the Plan was redone and we were successful in removing policy 4 the Plan would potentially be challenged through a Judicial Review. This was RDC's concern by our exclusion of Street Farm. That Judicial Review would be for RDC to contest not SPC.
43. It makes sense given the changes that have now taken place in the last 2 months to keep policy 4 in the Plan as a reasonable buffer against both potential increases in housing numbers and also as a buffer against any sites in the Plan that either don't come forward or under deliver which is always a risk.
44. If we don't have a buffer and the number is increased, we would need to update the Plan and add in sites which inevitably will be policy 4.

## Summary of Pro's and Con's

### Pro's for progressing the SNP to referendum

1. Importance of having a Neighbourhood Plan in place to protect the village from speculative development.
2. Significant increase in funds for much needed improvements in traffic control and other public facilities e.g. the public toilets.
3. Protection against increase in demand for increased housing.
4. Protection of areas designated as Local Green Spaces for future generations.
5. Protection of the remaining majority part of Street Farm from future development.
6. The long standing support for the SNP by a significant majority of residents.
7. The likelihood that any change to the Plan would be ineffective because development would continue to go ahead anyway.
8. The wish of the community to address infrastructure issues like traffic calming and of public toilets etc. which can best be funded through a Neighbourhood Plan which delivers a higher level of CIL payments.

### Con's for progressing the SNP to referendum

1. A number of residents have expressed concerns about the increased housing over and above the SNP i.e. 16 more houses.
2. An increase in the 'no' vote at referendum due to these concerns.

## Acknowledgements

No neighbourhood plan will satisfy all members of a community and Sedlescombe is no exception. The purpose of the referendum is to allow all residents to determine if the Plan moves forward with a 'yes' vote. Those opposed have the right to a 'no' vote at that time. All neighbourhood plans have a proportion of 'no' votes and that is only to be expected.

In response to the Examiner's report, RDC's Planning Policy Manager has stated in an email to the SPC Chair dated 27 November 2017:

- *Having the (first) NP in place gives it statutory status as part of the development plan for considering further planning applications*
- *(I think that this will count for a lot as we move forward into a more uncertain future on housing requirements)*
- *It locks in the long-term future of the more sensitive majority of Street Farm through the 'Local Green Space' designation*
- *It provides a clear endorsement to the other policies put forward by SPC, with only limited modifications*
- *It allows SPC to get higher levels (25% rather than 15%) of CIL*