

NEIGHBOURHOOD PLAN STEERING GROUP

MINUTES of Steering Group meeting held on Tuesday, April 4, 2017 at 7 p.m. in the Youth Centre.

Present: Stephen Hardy, Donna Moles, David Marlow, Lesley Smith, Peter Davies, Judith Rogers, Karen Ripley, Martin Bates, Jeremy Knott, Sue Prochak, Tamara Strapp, Sheila Brazier.

1. Apologies: Nick Greenfield, Alexander Church, Sean O'Hara, Ruth Hardy

2. Declarations of Interest: Judy declared an interest should any discussion of Grove Farm arise.

3. Discussion with Donna Moles and David Marlow: Stephen welcomed Donna and David. When David came to collect the ballot box he left with Stephen a copy of the Rother comments on the Reg 16 consultation, but also offered the possibility of a meeting to try to come to some sort of consensus on a number of comments Rother had made. Stephen asked David for his thinking behind that, as he was not aware of a precedent anywhere else.

[Henceforward the minutes will be in script form. To avoid confusion as Donna and David have the same initials, people will be referred to by first names.]

David: he felt they owed it to the Parish Council to explain comments and questions in order to help us to decide what to do, as we have a number of options going forward. They have also learned lessons. It was largely a matter of timing, so they ended up with quite a lot of comments. They have tried to phrase them so that the Plan can get through the examination. They support it, subject to comments. They have received very few comments from the consultation and are still processing them. Some are from developers. He just wants to explain where they are coming from, particularly on housing numbers, but also to help find a way forward so that we can get to an examination in a non-confrontational position. The regulations provide for all the Neighbourhood Plan and supporting documents to be updated and to go off to the Examiner. They have agreed the Examiner. They have looked at three and are quite happy with the one we suggested originally, i.e. John Slater.

Stephen: (To meeting) I took a decision on that in consultation with Donna and Karen.

(To David): Last week you said one aspiration was to construct a statement of common ground.

David Yes, so that we can go into the examination.

Stephen: Normally this would be achieved after the Examiner's report, and could quite possibly contain some of his comments.

Donna: Or at Reg. 14.

Stephen: We are going into it with the best possible spirit, but we may have to take some advice whether submitting a joint statement might even prejudice us with the Examiner. We appreciate it is done in a spirit of assistance, but we don't want it to prejudice things e.g. with the Examiner so that we have to go out for another six weeks' consultation.

David: We can't say to the Examiner "this is what we have agreed", but we can ask him to say how we are going to treat additional statements, and then we could be in a position to make a joint statement.

Donna: We are not sure what your approach was going to be, because if it was submitted as a late Reg. 16 comment it could cause all sorts of problems. So, we can discuss, because the Examiner will write to each of us for clarification, and at that point we can say we have already discussed it.

Sue: During training recently they had been told there is now much more scope for dialogue.

Donna: It depends. Some examiners want that dialogue. This one has a lot of experience and he is one of the more accommodating "let's have a discussion" sort. The government also want N. Plans to go forward.

Peter: Reading the Rother comments, I rather expected to see a statement of either they partly supported the Plan or not. It did not seem to be in the Representation. What does it mean to say "the Council has signed this off"? If this is the case, where are we?

David: The District Council makes representations like anybody else. There is not a box to say either we support it or we don't. It is all in separate elements. He is not personally convinced that we can easily overcome what the Environment Agency has said.

Peter: Is it a matter of drafting, in that the EA have read non-technical comments as technical ones? Possibly in discussion with the Examiner that could be explained.

David: I understand that, there are a number of drafting points, but it is the word on the written page and not what was meant by it that counts.

Stephen: Can we move to HO3, which is the meat of the issue? Site allocations: it is critical if we are having a Neighbourhood Plan which specifies sites and numbers – they don't have to do that. We are recognising the constraints of the allocations in the Core Strategy, which is now 130 houses for Robertsbridge.

Donna: (To David) What is your take on the site allocations in terms of numbers?

David: Essentially, in terms of what the Environment Agency has said and what Rother have said, they don't believe we can get sufficient houses on the Mill Site without going into Flood Zone 3.

Donna: There are other issues that could come to light which could make it acceptable.

David: True, but you have to go through the process because the presumption is that you have to go through it and it is clear there are quite a number of dwellings, including retirement flats.

Judy: This is not the point of the discussion.

Donna: We cannot predetermine the planning application in the NP. It is based on the 100 dwellings, but the further detail would be at planning application stage and you can't expect the NP to finesse all the details of a site that is going to be proposed.

David: The point remains, unless you go into the flood zone there is no way you can get 100 dwellings. Their assessment was that you had to do an express sequential approach about the flood zone, and that was not done. That is a planning requirement, and that is the role of the NP. The SEA quite clearly says there is flooding on that site.

David: Rother have discussed this with the EA and their view is that that sequential test has not been done. We have to be specific and say we have tried this test. There are other sites that are not

allocated.

Donna: There are other issues. It is not just the flooding and the environmental impact of it.

David: It is not set out anywhere. It could be done as part of the SEA, and he is just pointing out that it will be a vulnerability and at the end of the day the District Council has to be mindful of possible challenges, and the sequential test is something they have to do across the whole district. They have looked at it long and hard, and they don't believe there is an explicit, well-argued sequential test as part of it.

Donna: It is peculiar that in earlier consultations the Environment Agency did not comment about it, not at Reg 14, but at Reg 16 they comment. They say it has to be done either at the site selection or at the application stage. It is baffling.

David: For any site which they subsequently have to deal with at the application stage, there has to be an application of the sequential test. The PPG says it is the role of the plans, including neighbourhood plans, to undertake that work as well.

Stephen: Which paragraph?

David: 7062.

Karen: We need to be convinced ourselves that we can get that number out of the Mill site.

Sue: What we are doing is a policy document. We have put a number against a site. How that number is delivered would surely come up at development stage.

Judy: There are other sites around which are incredibly dense.

Sue: Mill Rise – 100.

Judy: One in Westfield, and one in Camber, and others which have been identified as the appropriate sites for development in the recent DaSA

David: You have to look at the circumstances of each site, and he felt there were particular circumstances for suggesting these sites. Stephen had said at the start that we would have to go into the flood area, so that seems to be common ground.

Stephen: We are saying there is a benefit to the community which would not be provided in any other way but at the sort of density we are talking about. How else would you redevelop the Mill apart from converting it into flats?

David: I accept that, but there is new building elsewhere on the site. They have to look at those areas of least risk. I am not arguing that you cannot make a case for it, but it is not an easy case to make.

Stephen: You are, because you are not talking about advice on wording. Their conclusions are that the numbers fall materially short of the required numbers for Robertsbridge. They are actually saying no to this Plan.

David: They are saying if we can gauge approximate numbers for the other sites. What they have said is what we need to do is the sequential test explicitly. If we can do that and get to a point

where we say these benefits cannot be achieved in any other way in another site ..

Donna: When do you propose that would be done?

David: It is in the PPG. We do have an application running at the same time. They have not done it either, but the responsibility is on both us and the Mill people to do it. As to timing, it does require further work and how to present it? It could be in submissions to the Examiner. The NPPF is very strong (para.101) in terms of flood risk. The aim of the sequential test is to steer new development to the areas with lowest probability of flooding. Essentially, we have to look at our sites (our reasonable alternatives) and say why those that are in a lower flood risk category ..

Tamara: Nobody seems to have mentioned the flood defences.

Donna: The Mill site are speaking to the EA about that site and all the modelling, so there has been dialogue. Providing a page and a half at Reg 14, and 40 + pages at Reg 16: this is not fair on us at the NP sharp end. A lot of NPs have got sites in flood areas. Rother's representation could have been written before, but it has come at the next stage when we cannot discuss it. further

David: The representations have been extremely carefully considered. I have come along to previous meetings and explained the position. If we use the SEA as it stands, if we look at the alternative sites, it does not make a clear case that there are not alternatives that would be better, and you need to say that. If I were acting on behalf of Grove Farm or Bishops Lane, I would be arguing that with the Examiner. If we are not explicit about why they are not acceptable, then we and they are going to be caught out.

Jeremy: If we run this and the Examiner does not have a problem with the numbers and then an application comes through for a much lower number, where are we then?

Donna: You review your Plan and the sites that are next on the list, and other sites might come forward.

Jeremy: The 100 is based on a total figure of 130, so we have a built-in buffer.

Sue: David has suddenly brought up the sequential test, but also says that if a planning application comes in and they did a sequential test.. would that then be supporting our local Plan?

David: I can't say at this point.

Jeremy: How many dwellings are in flood zone 3?

Stephen 33, but that includes the Mill building. Some are in the old building and some in the new, but they treat it as one block.

Judy: It seems strange that these maps with the flood zone don't appear to show flood defences at all. It must reduce the flood risk.

David: In terms of level of risk and the balance with community benefits elsewhere, there is an equation.

Donna: The site assessment document – they need to look at the wording again.

David: It was not in relation to the sequential test. You have to develop outside the flood zone

unless there are overriding reasons.

Peter: Can we be developing that in parallel with it going to the examiner against the day, or is he saying this should not go forward until we have a sequential test?

David: My preference would have been to take the view that with a lot of deficiencies in planning of the Mill Site, I would have thought we could develop it and still go ahead to examination, but I feel to an extent things may have moved forward because of the application in progress. Don't rely wholly on them, but we have to make sure we are looking at the alternatives in the Neighbourhood Plan.

Jeremy: If we had not been specific about the numbers on the sites, would we be having this discussion? Are not we just being held hostage by the numbers?

David: The reality is that we have got to deliver a number, and we have to have a reasonable prospect of getting that number. One of the questions will be, is a developer going to want to do that? Probably not. They have to take into account what is realistic. They are trying to make the numbers work. It is still theoretically possible, but it relies on the sequential test to provide a robust justification.

Sue: It is almost as if David has been pushing us to provide an actual planning application, which is not our job.

Stephen: Also recognising that his development colleagues were saying they are down to 3.7 years rather than five to provide housing need in Rother, surely it is in their interest to encourage development proposals?

David: What the Council has to demonstrate is that they can provide adequate sites. The fact that there is an application for the Mill is in all our favours. Yes there are issues, but for any Plan if you have identified a site and a planning application has come in that is a benefit, because it shows the site is moving and the developers want to continue. So to continue the supplementary document while awaiting developers is the best way forward, so that if the Examiner asks questions about it we have some answers ready.

Stephen: I appreciate what you are saying but as Donna said earlier you have put us in a really difficult position by making such substantial comments at this stage of the consultation process, when they could have been made at the Reg. 14 stage. Why were they not?

David did not reply.

Donna: There is no requirement for the Parish Council to see Reg 16 representations, they go to the Examiner. This is quite a clear case where this should not have happened. It is a very big representation at Reg 16, not at Reg 14, and also statutory bodies making representations now when they did not do it at Reg 14. Actually, the Plan had been behind the timetable when they were expecting it, so they should have been ready because Norman was kept in the loop all the time. The Plan was not a surprise that it came at that time.

Sue: The sequential test might say that the development should not be there, it should be at Grove Farm, is that possible?

David: It could be. It is one of the alternative sites we would have to consider.

Stephen: Any more comments on housing numbers? - No. The meeting moved on to employment.

Given that the Core Strategy does not designate a figure for any of the ten villages to absorb what amount of the total, David knows that now they have got the application there is a specific provision for employment use, and the Culverwells one is progressing using the current 1300 sq m provision. And there was the permission granted to Culverwells itself since the date of the Core Strategy so what is the problem: On the Mill there is a total of 1200 sq. m identified.

David: But it is not in the plan. A developer could apply then to submit an alternative application without the employment.

Stephen: But there is no specific requirement on us.

David: No, we are not saying that. If there is a demand, then it is a sensible place to accommodate it and the Mill owners have shown it is not unfeasible. What we are saying is that we have to consider whether there is a realistic prospect. The point is, it is.

Donna: Doesn't EC3 and EC7 encourage employment? We are very clear we are encouraging employment and we would work with them to find business space, but can you be more explicit about what the policy should state? That is the solution in other neighbourhood plans that don't identify housing sites, but why are we required to allocate employment sites?

David: We have stepped back from EC3 to accommodate us. We are just saying we would like some business space, do we welcome that? This is an opportunity for a living/working village. If we can be satisfied there is a prospect of businesses being able to take space there, that could be reflected in the Mill site.

Judy: How come the DaSA document says they are taking business space away e.g. the caravan site at Hurst Green .. How can they tell us we have to provide space, and take it away with the other hand?

David: It is a potential outcome of the work. I have not seen yet what employment evidence is with the Mill Site application. We should consider whether there is a realistic prospect of getting some on there.

Donna: But we have not got the evidence at the moment to put it in that policy as it stands. We acknowledge the fact that there is the need for employment space. We have not got evidence now, but we are working with the developers of the site.

Tamara: One of our supporting documents does contain this anyway.

Peter: What would be the mechanism? We have submitted the Plan to the examiner, we can't re-write this now anyway. How would we actually do it?

Donna: I can't see how we can do this, particularly as we don't even know how much the requirement is. EC7 is the best approach to this point.

David: There is a floor space requirement. They have a minimum, but what they do have is an expectation that we assess the need for employment. It is almost, leave it for another day.

Donna: So we might add another bullet point to that list?

Peter: Can we do that?

Donna: No, not now, but we would wait for the examiner to ask us. We could have the wording

ready. We could have a suitable sentence ready as a clarification which we could add later.

David: There is a risk that if we are making amendments there could be circumstances where we might have to go out to consultation again.

Stephen: That is the problem with the level of detail of comment here, when we are not in a position to do anything about it to revise our Plan. It was not forthcoming at Reg 14.

Donna: The examiner could be alerted to the possibility of adding a sentence.

David: A site allocation policy pre-empts a generic policy. If there is anything on employment there, we have got no grounds to ask. They are not actually saying we have to have the policy. We have done quite a lot of work which is positive. At a commercial level, if there is potential there they would like to retain it, because none of the other sites are possible.

Peter: If we are doing a sequential test in parallel, is there any possibility of sneaking in another sentence as a mechanism to get it on record?

Stephen: Does anybody have other issues to raise?

Martin: Green spaces. They criticise the size of our green spaces, and are also proposing an alternative.

Stephen: I would like to point out that GSO2 is the Millennium Wood, which was planted by the village.

Donna: We have gone through each site and considered the criteria comprehensively. The comment does not justify why they are criticising them.

David: By implication, it is obvious when you look at the areas we have got a lot of green space, bearing in mind it should not be used as a general protection, and not an extensive tract of land.

Donna: They are looked at as individual pieces of land and it is quite clear with each one why they are valued, and they serve all sorts of different purposes. We did a huge amount of work on it, and in connection with the trees as well. That policy needs to stay as it is, and let the examiner look at it.

Martin: We paid a lot of attention to the guidelines, and that was our collective opinion.

Donna: I have seen a lot of Plans where they have tried to use local green spaces as a way of stopping development. That is not the case here, and we should leave it to the examiner.

David: The District Council will take the view that we should view them collectively and see what happens.

Martin: They propose an alternative designation, what would that be?

David: They will elaborate in their submission.

Stephen: We discussed it very thoroughly, and probably spent as much time on this as on housing. Any other points to mention to David?

Sue: At this point I should declare an interest about Robertsbridge Children's Services (RCS) as the

chair and trustee. It is a charity and is not part of the education provision. There is no way ESCC can know when a child is born whether there is nursery provision. RCS manage their predictions on what parents ask them. They presented the figures to us. ESCC cannot present any figures. Their recommendation in 3.2.(i) we should keep, because it is very much a local issue. It is non-statutory education provision.

David: I will review it in terms of their education provision. RCS is not non-statutory provision. I will see what the education authority says.

Donna: The recommendations of the policy were not an issue, it is just supporting text in that the community would like to be informed that this is the case.

Martin: Local listing of buildings (EN7 and 8). There is a factual error, but also, I am wondering what the implications are of their comments.

David: Only the local planning authority can have a local list. There is a very clear procedure which I have been through with the conservation officer. He thought it unlikely that Rother were going to do a local list, so they have just changed the wording of the policy to acknowledge that these are seen as important local buildings.

Stephen: We know we do not have the authority to do it ourselves, but we wanted a situation where it came to the top of the list rather than the bottom. We put in an awful lot of work for that purpose.

David: I have tried very hard with colleagues to get a form of wording so they can manage the listing to help us.

Donna: Assets of Community Value: The list could be moved to supporting texts. It is one of those policies that sometimes the list is taken out by the examiner, and sometimes left in there.

Stephen: We had made one application, which just proves the point that this village cares passionately about what makes it special. With the Questionnaire, there is supporting evidence for if and when the Parish Council comes to apply. The examiner might decide to take the list out, as it is not actually designated yet.

Donna: There are several major Plans with Assets of Community Value.

Judy: What happens now?

Stephen: We still need to consider whether or not statements of common ground would actually be constructive to put to the examiner, or whether it would jeopardise our circumstances. It is not clear-cut, and we might have to take some advice before doing it. We do recognise the good intentions of Rother in offering us the opportunity to do it. We will consider it and get back to them as soon as possible, but we recognise that even if we don't do a statement of common ground we will have done a lot of the preparatory work in recognising some of the issues.

David: That is fine. The critical thing is to make sure the examiner has information to make recommendations, and then we have got a revised report we can fall back on in the event of challenges. I will go back to Mr. Slater and ask him to do it.

Donna: We have to have a reason.

David: It would be the complexity, so that we can manage the process more.

Stephen: When he is formally appointed we might know a little better.

Martin: After the inspector has let us have his judgment, then we have to re-draft to incorporate his comments.

David: If we had an oral hearing then we can guarantee he will accept further submissions. We can request this, but we would have to have a reason why we want to do this.

Karen: Who else gets the chance to be heard?

Donna: It is not a complex Plan compared to others, but we could argue for example the Mill site.

Karen: Who gets to speak?

Donna: The Inspector decides.

David: .. or if he wants to hear more evidence. He will decide what issues he wants to hear, and who he wants to talk to about them. We could ask for it, and also, he could ask for it at any point in the process.

Judy: How long is it after he has been appointed before he gets our documents?

David: I think we put in a date of early May, so we will expect to get them to him in a couple of weeks.

Donna: Requesting a hearing would be another avenue for us to put in more information.

At this stage, Stephen thanked everybody for attending at quite short notice. He, Donna and David left the meeting because of train times. Tamara took the chair and resumed the agenda at item 4.

4. Minutes of previous meeting: Agreed.

5. Matters arising: None.

6. Update on planning matters: Sue had called in the application for more extensions to the bungalow in Knelle Road the Parish Council had objected as well.

Jeremy: The provision of parking on the Mill site application is woefully inadequate.

Peter: At the village meeting a lady had suggested a more imaginative way of organising parking in a sort of spiral, i.e. there may be other ways of doing it without materially altering the provision.

The application at the Ostrich has been approved.

7. Date of next meeting: To be confirmed in the week after Easter.