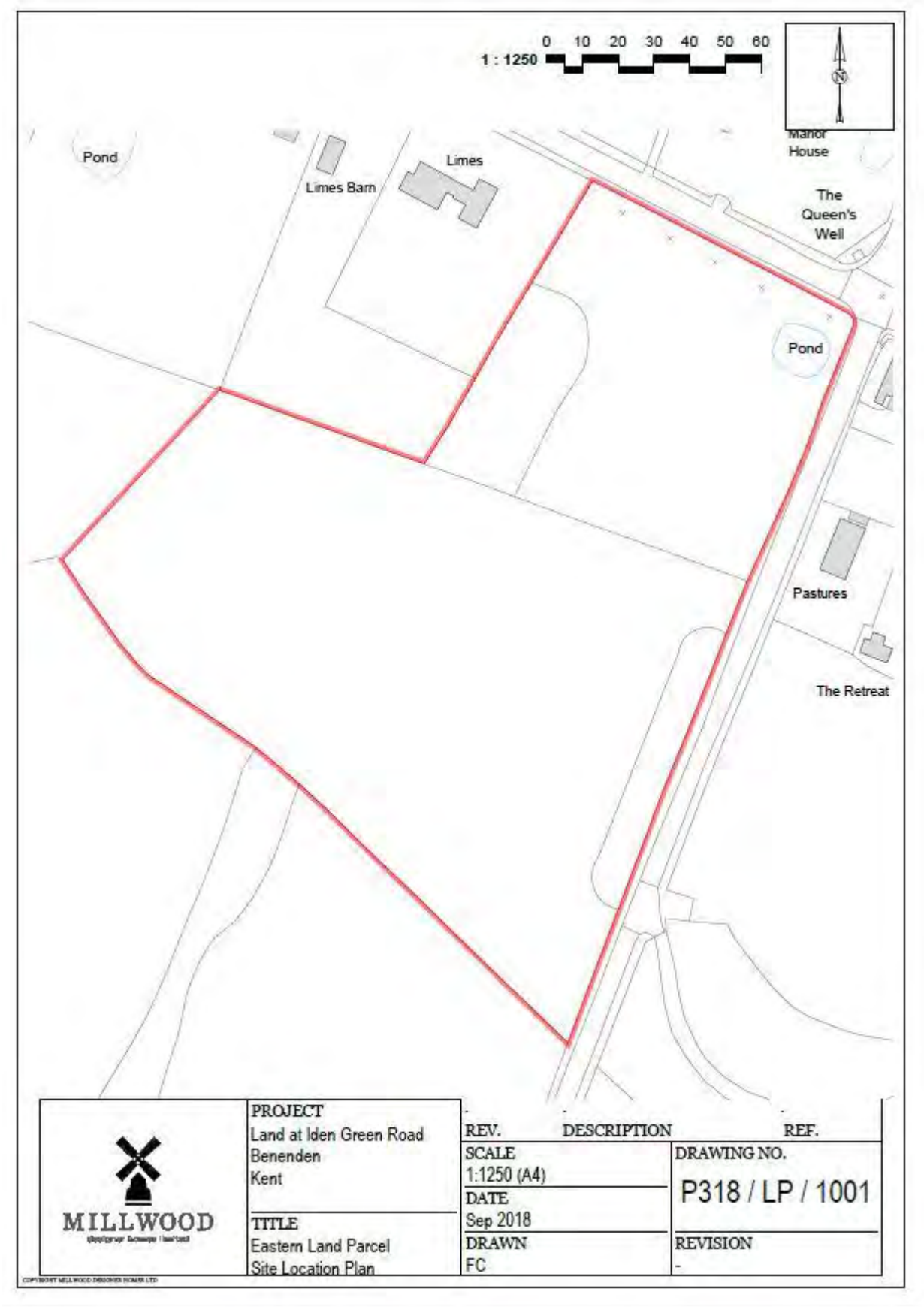


BE_86: Woolf Bond Planning for Millwood Designer Homes

Site location plan land at Iden Green Road



[Back to Comment Number BE_86](#)

BE_99: Euan M Burrows

Draft Benenden Neighbourhood Plan – Regulation 14 consultation response

Introduction

- 1. These representations are made on behalf of Euan Burros, Mockbeggar Lane, and a group of residents who all live in East End, Benenden.
- 2. The focus of these representations is on Site Specific Policy 3 Site North of Goddards Green Road, East End; Site South of Goddards Green Road, East End.
- 3. We have also submitted a consultation response to the regulation 18 Tunbridge Wells Local Plan which focusses on Policy AL/BE4. Much of this applies to the draft Benenden Neighbourhood Plan ('the Neighbourhood Plan') and, rather than repeating those representations verbatim here, have included that response as Appendix 1. The comments below should be read alongside our representations to the Local Plan.

The Principle of the Neighbourhood Plan

4. Whilst it is open to a neighbourhood plan to seek to allocate sites for development, neighbourhood plans should not re-allocate sites that are already allocated through strategic plans (para 044 PPG Neighbourhood Planning⁷).
5. The current wording of the Neighbourhood Plan is extremely unclear with regards to the nature of the plan – namely, whether it is seeking to make site allocations. Paragraph 2.1.1 of Policy HS1 states that:

“Our allocation, made in close co-operation with TWBC, would meet the Government’s requirement for sustainable and deliverable new housing.”

6. This clearly indicates that the Neighbourhood Plan is making allocations itself. This cannot be correct. Site Specific Policy 3 solely relates to sites that are sought to be allocated through the emerging Tunbridge Wells Local Plan (‘the Local Plan’). This is apparent from Policy HS1, which states that 45-50 units will be provided at site 424 and late site 40. This mirrors Policy AL/BE4 of the Local Plan. As such, it must be made clear in the Neighbourhood Plan that it is not an allocations document. If it were allocating site 424 and late site 40 it would be inconsistent with Planning Practice Guidance. Any duplication should be removed.
7. At present, the Neighbourhood Plan is imprecise and inconsistent with the PPG.

Approach to Brownfield Land

8. Whilst the sites are allocated in the Local Plan and not the Neighbourhood Plan (see above) it is clear that the selected sites have been chosen between Tunbridge Wells Borough Council and Benenden Parish Council (pg. 39).
9. Of the 4 allocated sites, 3 of the sites are on brownfield land. The Neighbourhood Plan states that these selected sites clearly meet the requirements of the NPPF in that they prioritise previously developed land (pg. 39). However, this is a misapplication of the NPPF.
10. Paragraph 118C of the NPPF provides that:

“Planning policies and decisions should:

give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land”

11. There are two points to note. First, paragraph 118C does not require brownfield sites to be prioritised over other locations. Rather, it states that substantial weight should be given to the value of using suitable brownfield sites. The statement that priority should be given to brownfield sites is therefore a clear misapplication of national planning policy.
12. Second, when properly applied paragraph 118C does not support development in the East End. This is because, as detailed in the response to the Local Plan, this site unsustainable and therefore not suitable for development. Whilst the site could be made sustainable, at present the allocation of this site for up to 50 residential units is in fact contrary to national policy rather than in accordance with it.
13. Third, the ‘brownfield’ nature of the land extends to limited historic development that was strictly ancillary to the hospital use. This legacy cannot be used as a basis to now promote the use of the site for an altogether different purpose, namely a large scale residential scheme (also including greenfield land) that vastly exceeds the scope and purpose of the historic land use in terms of its physical impact (including on the abutting AONB) and clear conflict with the requirements for the sustainable land usage policies.
14. For this reason, the Neighbourhood Plan is inconsistent with national policy.

Inconsistency with Local Plan

15. The individual site assessments for the East End (document HSA3) note that access is limited to the narrow Goddards Green Road which is unsuitable for high volumes / rush hour traffic, that there is poor public transport and that there are few facilities / amenities. The East End is isolated from any settlement and is an unsustainable location at present.
16. Development at an unsustainable location is contrary to Policies STR2 and TP2 in the draft Local Plan. Furthermore, there is no infrastructure planned in either the Neighbourhood Plan or the Local Plan. There is no plan to make the isolated East End a sustainable settlement.
17. This site is incompatible with the draft Local Plan and therefore the Neighbourhood Plan does not meet the basic conditions⁸ as required.

Site Specific Policy 3 (‘SSP3’)

18. As made clear above, the marked problem with the East End site is that the location is unsustainable. The proposed site specific policies are plainly inadequate in addressing this fundamental issue.
19. The site specific policies are, at present, broken down into four sections. The first two relate to all of the site whereas the last two are specific policies for the south site and north site. The distinction between the first two set of policies is, in fact, that the first set of policies applies solely to the Hospital Trust and the second to development proposals more generally across the two sites.
20. This is a deeply problematic policy approach. Planning applications can be made by any party, regardless of land ownership. Any party, and not just the Hospital Trust, could apply for permission to develop land at the East End. As such, policies must apply equally to all parties. Confining policies to only the Hospital Trust means that any other applicant wouldn’t be expected to comply with the first set of policies in SSP3. This is clearly contrary to the public interest in planning and, arguably, discriminatory.

⁷ <https://www.gov.uk/guidance/neighbourhood-planning-2>

⁸ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990

21. Furthermore, in light of this it is a fair reading of SSP3 that it is assumed that the Hospital Trust will be granted planning permission, or, only applications from the Hospital Trust will be entertained. This clearly amounts to an unlawful predetermination of planning applications.
22. In the event that it is only the Hospital Trust who apply for permission to develop this site, the current policies are clearly inadequate to address the unsustainable nature of the site. The only facility proposed for future residents to buy essential goods is only one of a small shop, café or other commercial enterprise. This is plainly inadequate to meet the needs of upwards of up to 72 houses (Policy AL/BE4 of the Local Plan) in an isolated location. Residents will be reliant upon other, more developed settlements on a day to day basis, which fails to make the East End a sustainable settlement. The other proposed facilities are highly specific in their application and therefore lack the substance required to address the lack of sustainability of the site.
23. The attempts to address transport to and from the East End are inadequate. The proposals are the provision of a foot and cycle path and promoting and supporting a Kent County Council Hopper Bus trial. Neither is sufficient to make the settlement sustainable. The former fails to have regard to the fact that it is roughly a 4km journey from East End to Benenden. Given there are not any shops at East End, and nor are there forecast to be from SSP3, the use of this path would require residents to walk or cycle a round trip of 8km. This clearly will be ineffective. The second does not guarantee to make East End more sustainable, given it relates to a trial which may, at any point, be terminated by Kent County Council.
24. No other policies seek to address the sustainability of the site in terms of services and facilities. As such, SSP3 is plainly inadequate to make East End an acceptable location for sustainable development. It is therefore inconsistent with the Local Plan and the NPPF.

Local Consultation

25. Local consultation carried out in advance of the publication of the Neighbourhood Plan clearly favoured smaller units with good links to the village. However, this response forms no part of the Neighbourhood Plan, instead favouring the approach set out by the Local Plan of focusing development in the East End.
26. It is a legal requirement for a consulting body to conscientiously take into account the product of consultation.⁹ That has not been done here. Rather, the Neighbourhood Plan has ignored this consultation response in favour of locating development away from settlement centres in the unsustainable East End. This is unlawful.

Draft Tunbridge Wells Local Plan – Regulation 18 consultation response Introduction

1. These representations are made on behalf of Euan Burrows, Mockbeggar Land and a group of residents who all live in East End, Benenden.
2. The focus of these representations is site allocation policy AL/BE4, which seeks to allocate 44-50 further dwellings at the land at Benenden Hospital, SHELAA references: site 424 and late site 41.
3. The land subject to policy AL/BE4 is situated approximately 4km to the north east of Benenden. It is connected to Benenden by Goddard's Green Road / Benenden Road (a designated rural lane). There is currently permission for 22 new dwellings on the. It contains land which is previously developed for a limited use, being land previously used by the hospital.
4. The site is unsustainable. There are no amenities on the site. There are no bus services which serve the East End. Access is via the narrow Goddard's Green Road. There are no community facilities.. Simply put, aside from the houses currently on site and the hospital (with associated buildings), there is nothing else on site.

The Sustainability Appraisal ('SA')

5. It is our view that the approach taken to selecting sites for the proposed allocations in the Local Plan is fundamentally flawed. As such, at present it is the case that the Local Plan cannot be considered sound with regards to policy AL/BE4.
6. Section 8 of the Sustainability Appraisal concerns the SA of the Potential Development Sites. Paragraph 8.1.1 of the Sustainability Appraisal states that:

"All sites submitted to the Council's Call for Sites process were assessed against a robust methodology which is set out in the Strategic Housing and Economic Land Availability Assessment (SHELAA). This included all sites received through two Call for Sites processes and sites received since then but prior to the 22nd February 2019 (known as 'late sites' or 'additional sites' and 'A_S' on all figures in this chapter)."

7. Paragraph 8.1.3 of the SA provides that:

"A number of sites were filtered out during a first stage initial assessment of sites. For the purposes of this SA report, these are sites that are not considered to be reasonable alternatives requiring a sustainability appraisal."

8. Paragraph 8.1.4 of the SA provides a list of criteria by which sites were initially filtered out.¹⁰ It appears to be the case that the list of sites which made it past this initial filtering (such that they were considered 'reasonable alternatives' for the purposes of the SA) are listed at Table 32 of the SA (pg. 32). It should be noted that whilst there are 11 site references included in the list of reasonable alternatives, 6 of these sites constitute the 4 proposed allocations for Benenden, including sites 424, AS_40 and AS_41 which form policy AL/BE4.
9. However, this approach is flawed and, in any event, has been misapplied in relation to Benenden.
10. First, there is no good reason provided for why these filters have been provided. Whilst some of them make clear sense (bullet points 1 and 2, for example), others require justification yet none is provided. In particular, no reasoning is provided in either the SA

⁹ *R v North and East Devon Health Authority, ex parte Coughlan* [2001] QB 213

¹⁰ This is the same list applied to the SHELAA filtering process (paragraph 3.23 SHELAA) although different results were achieved, as commented on below

or the SHELAA as to why sites which are likely to provide less than 10 residential units were filtered out. Whilst this may, in principle, be appropriate for the larger settlements affected by the Local Plan, this should not be applied across all potential sites. This criteria serves to neutralise a number of potential sites in and around Benenden without good reason. It is clear that smaller sites can be appropriate – policy AL/BE1 is an allocation for approximately 12 dwellings. Without justification, it is wholly untenable to immediately filter out all sites which will provide a yield of less than 10 residential units.

11. Second, the initial filtration has been misapplied. Specifically bullet points 1 and 2 of paragraph 8.1.4 provide that sites that will be filtered out include sites that are:

“• Located in remote locations away from existing settlements; such sites considered unlikely to be sustainable in this context; in some instances some remote sites have been considered in the context of a new garden settlement where applicable or as urban extensions; (Bullet Point 1)

• Not well related to a settlement; this has included sites that may be in relative close proximity to a settlement but are not well related to the built form of the settlement for example because they are cut off / separated from the settlement / built form in some way; (Bullet Point 2)

12. If these points were to have been correctly applied, it is inconceivable that AL/BE4 would have emerged as a preferred option.
13. With regards to Bullet Point 1, AL/BE4 cannot sensibly be said to be a settlement given the small number of houses and the complete lack of facilities. This is acknowledged in the SHELAA when it states that AL/BE4 is “remote from a settlement centre.” Indeed, the nearest settlements to AL/BE4 are Benenden or Biddenden, both of which are 4km away (pg. 263 of the Local Plan). Applying the methodology set out in both the SA and the SHELAA, as is the required approach, AL/BE4 should not have made it past the initial filtering stage.
14. With regards to Bullet Point 2, it follows from the above that AL/BE4 is not well related to a settlement. The relation between East End and Benenden is along the narrow Goddard’s Green Road. There is no walking path and no cyclepath between East End and Benenden. Indeed, this fundamental deficiency in relation to Benenden is clearly acknowledged by the wording of AL/BE4, and would not change even if attempts to introduce measures required by this deficiency such as an ‘active travel link’ were introduced.
15. From the above, it is clear that the sites which form AL/BE4 should not have been capable of making it past the initial filtration stage. Both site 424 and late site 41 are too remote to meet the criteria of the SA.
16. The unsustainable nature of site AL/BE4 is demonstrated in Table 33 of the SA (pg. 79). AL/BE4 scores as being very negative to negative on the sustainability topic of Services and Facilities and as being negative on the sustainability topic of Travel.
17. Appendix K to the SA provides the scoring for each of the sites against each of the sustainability topics concluded to be reasonable alternatives.¹¹ The improper inclusion of AS_41 means that there are a number of reasonable sites which have not been allocated. These sites are sites 158, 222, 425, AS_8 and AS_21. Notably, sites 158 and 222 have no very negative scores.
18. There is a different and unjustified approach taken to the sustainability topic of Services and Facilities for AS_41 compared to other sites. The commentary to site AS_41, which scores very negative on services and facilities, makes no reference to the lack of provision of services. Instead, it states that *“Although promoted by the policy, shared transport and active travel options are unlikely to take precedence over private vehicle use thus air quality and climate change also score negatively.”* This failure to reference the lack of services is wrong, either because it has failed to take it into account, or because it is operating from the assumption that services will be provided once the allocation is built out.
19. Both of these approaches are improper. In practice the primary negative of the site has been discounted in the allocation assessment, which is clearly wrong. This site is fundamentally incompatible with sustainable use and this should obviously have weighted heavily against both (i) its inclusion at all and (ii) as would appear beyond reasonable debate, the extraordinary and inflated scale of development that is now proposed.
20. Second, any attempt to discount this on the basis that a future allocation can compensate for it is plainly wrong. First, because this could be true for any potential issue for any site, thereby making the evidential base of the allocation process otiose.. Second, because the proposed services are clearly inadequate to address this issue. The proposed cycle path fails to have regard to the fact that it is roughly a 4km journey from East End to Benenden. Given there are not any shops at East End, and AL/BE4 solely makes provision for a ‘small retail unit, the use of this path would require residents to walk or cycle a round trip of 8km. This clearly will be ineffective. The minibus service is, during the week, a school run which wouldn’t meet the needs of other residents of the East End. These provisions are clearly inadequate in addressing the unsustainability of the site. In comparison, the commentary to both sites 158 and 222 notes a *“lack of services and facilities including public transport at the settlement”*, making no reference of the possibility of future development providing these services. They also miss the point in that in practice developments of this scale are strictly discouraged in rural and isolated location precisely because they inevitably encourages car use.
21. Finally, there is a failure in the SA to take account of the planning permission that has already been granted for this site.¹² This granted permission for the development of 24 dwellings at land adjacent to Benenden Hospital. In our view, the Hospital is seeking to bring forwards a large scheme of residential development in multiple phases on this site of which that planning permission was the first stage. The failure to take account of the overall scale of this scheme in the Local Plan process is a fundamental failing.
22. To conclude on the SA, the approach taken by the SA is flawed and inconsistent. Site AS_41 (as described in Appendix K) should not have made it past the initial filtering stage as a result of its remoteness and lack of connectivity with any established settlement. This is especially true when the allocation is for 66-72 houses with few notable facilities to be added, meaning AL/BE4 would create an isolated outpost reliant upon travel to Benenden along Goddard’s Green Road. The SA provides reasonable alternatives that are better sites and can accommodate the 44-50 houses AL/BE4 seeks to provide.

¹¹ Sites 424 and AS_40 are included in the analysis of AS_41

¹² Ref: 17/00951/FULL

23. Insofar as AL/BE4 is based on the SA, the Local Plan is not justified and ineffective. For these reasons it cannot be considered sound.

Strategic Housing and Economic Land Availability Assessment ('SHELAA')

24. Insofar as relevant to this representation, the role of the SHELAA is to identify land which may be suitable to allocate for housing (paragraph 001 PPG Housing and Economic Land Availability Assessment¹³).

25. Paragraph 3.2 of the SHELAA states that:

"The outcomes of the SHELAA should be to identify sites and broad locations with potential for development, assess their development potential, assess their suitability for development and the likelihood of development coming forward."

26. The SHELAA provides a site summary assessment of each of the sites. The conclusions of the SA feed into this. Paragraph 4.5 of the SHELAA notes that:

"The outcome of the SHELAA is not a list of sites that will be allocated for development in the Local Plan, but forms part of the evidence base to support policies in the new Local Plan. For some of the sites considered by the SHELAA to be suitable for further consideration, the production of this Draft SHELAA does not rule out the possibility that additional issues may arise during this process, or subsequently through the consultation on the Draft Local Plan, that then preclude a site being considered suitable for allocation for development. The converse may also be true, with the possibility that further information or amended, or new, site proposals coming forward that make them more suitable. A final SHELAA will be prepared to inform the Pre-Submission Local Plan to be prepared under Regulation 19."

27. However, in our view the conclusions of the SHELAA as currently reached are fundamentally flawed. The focus of these representations are the site assessment sheets for Benenden Parish, dated July 2019, as these are the most recent SHELAA documents.

28. We note that the SHELAA states it applies the same initial considerations to stage 1 site assessments as the SA (paragraph 3.23 SHELAA). In accordance with the representations made above, the sites comprising AL/BE4 should not have made it past this initial assessment stage.

29. Site AL/BE4 is correctly identified as being "remote from a settlement centre." However, this remoteness fails to feature in the remainder of the site assessment. The sustainability assessment notes that "residents will rely heavily on private cars and thus air, equality and travel objectives score negatively" yet makes no reference to the Services and Facilities objective which, as discussed above, receives the lowest score possible for a sustainability objective. The site assessment sheet concludes that the site is suitable as a potential site, for the reason that *"This is mostly a PDL site that already benefits from an extant planning consent."* This conclusion is significantly flawed for three reasons.

30. First, the SHELAA adopts a different approach to the remoteness of AL/BE4 to other sites. Sites 289, 295, 397 and 425 are all identified as being remote from settlement centre. In each case this weighs heavily against each site. However, the remoteness of AL/BE4 doesn't feature in the conclusions on whether it is a suitable site. The fact that those sites are not considered reasonable alternatives under the SA is not relevant to whether the site is too remote to be a potential site in the terms of the SHELAA. This inconsistent approach to remoteness within the SHELAA infects the conclusion that AL/BE4 is a suitable site.

31. Second, the SHELAA site assessments places undue emphasis on AL/BE4 being mostly previously developed land. The Land Use topic in the SA includes the objective of using previously developed land.¹⁴ It is reasonable to read this across to the SHELAA. As such, use of previously developed land is clearly a material factor in judging the suitability of a site. However, it should only be one factor among others, not an overriding principle. In this case, the fact that the land is mostly previously developed is one of the two reasons given, notwithstanding the fact that the remoteness of the previous use of the site was justified by its connection to the hospital. The proposed use, however, would be a number of houses not dependant upon or linked to the hospital. This fails to properly consider the use of the site in accordance with the stated methodology of the SHELAA (c.f. paragraph 3.14).

32. Properly understood, there is far less benefit from the use of previously developed land for this site than is stated in the SHELAA. The approach currently adopted by the SHELAA makes the remainder of the assessment otiose insofar as allocations will necessarily be made on previously developed land, regardless of the other relevant factors including those encapsulated by the sustainability objectives.

33. Third, there is no good basis for placing significant weight on the extant planning permission for this site in terms of the achievability of development. The furthest that the extant permission goes is to demonstrate that 24 residential units are achievable on the site. It does not show that a further 44-50 units are achievable on the site. This reasoning would result in the exponential growth of settlements with extant permissions and non-allocation of sites where, for example, all permissions have been built out. This is clearly flawed.

34. Furthermore, this fails to have regard to the broader point with regards to this site, namely the fact that the Hospital are in the process of bringing a large scheme of development across multiple phases. The approach currently taken in the SHELAA would justify a cascade of development from this single application whilst failing to have regard to the sustainability reasons for not allocating the site. A holistic approach is required in order to appreciate the totality of development proposed by the Hospital for the site, the acceptable upper limit for residential development in this isolated rural area and why, therefore, no further allocation should be made.

35. To conclude on the SHELAA, it adopts an inconsistent approach between different sites. Furthermore, whilst purporting to analyse the sites against a range of factors it in fact has been carried out such that previously developed land will necessarily be allocated before greenfield land, notwithstanding any other factors relating to that site including the nature of the previous use and any other nearby uses.

¹³ <https://www.gov.uk/guidance/housing-and-economic-land-availability-assessment>

¹⁴ Table 6 SA

36. Insofar as AL/BE4 is based on the SHELAA, the Local Plan is not justified and ineffective. For these reasons it cannot be considered sound.

Policy AL/BE4

37. Furthermore, reflecting its fundamental unsuitability, Policy AL/BE4 also conflicts with other policies in the Local Plan.

38. At present the site is wholly without services.¹⁵ It is isolated from any settlement and has no regular transport links to established settlements. The SA notes that most access to AL/BE4 will be via private car, yet this conflicts with policies STR2 and TP2 of the Local Plan.

39. Table 3 of the Local Plan sets out the scale and distribution of development for each Parish / Settlement covered by the Local Plan. For development in East End it states that all significant infrastructure is set out within the Infrastructure Delivery Plan ('IDP'). This table is repeated in the IDP. In this context, infrastructure has a broad meaning. It covers both physical infrastructure and community infrastructure. Table 1 of the IDP sets out the detail of different types of infrastructure. The Infrastructure Delivery Schedule, Appendix 1 of the IDP, lists all Infrastructure to be delivered. The only Infrastructure that relates to Benenden is the provision of additional youth and children's play space (pg. 104). There is no transport infrastructure to be provided. This conflicts starkly with Policies STR2 and TP2 of the Local Plan. It cannot be said that AL/BE4 is sustainable or accessible at present, and significant and unacceptable (and unplanned) road and other infrastructure would be required to make it so. The furthest the Local Plan goes to addressing these issues is to state in Policy AL/BE4 that any development shall provide an active travel link between East End and Benenden. However, this falls far short of what is required to make the isolated East End a sustainable settlement location. This therefore conflicts with both the Local Plan and the NPPF.

40. To conclude on this point, Policy AL/BE4 is in conflict with other policies in the Local Plan and the NPPF. It is therefore ineffective and inconsistent with national policy. For these reasons, Policy AL/BE4 cannot be considered sound.

The Principle of Development

41. It is important to emphasise that we do not object to the principle of limited development on a sustainable scale on this site reflecting and commensurate with the existing hospital related residential accommodation. However, it is clear that the Hospital is seeking to build out a significant scheme of residential development in a staged fashion by first obtaining a discrete and existing planning permission on an adjacent site and then seeking to allocate additional permissions on ancillary hospital land under the guise of 'brownfield' development, despite the fact what is now proposed has no relation to that which previously existed. The Local Plan is request to look at the impact of this scheme in a holistic fashion which, when properly considered, is fundamentally inconsistent with the sustainable land policies TWBC is required to apply in its overall impact of what is fundamentally a rural area. It is clear that this is a site which has significant constraints on the possibility of development at present. Aside from the hospital and a number of houses, there are no facilities or services on this site. Indeed, it is clear from the Local Plan and the documents submitted with the Local Plan that the only reason this site is in consideration at all as a potential allocation is because of its status as previously developed land.

42. We therefore invite Tunbridge Wells to remove AL/BE4 from the Local Plan.

[Back to Comment Number BE_99](#)

¹⁵ Noting the inaccurate statement in the Local Plan that there are educational facilities on the site



[Back to Comment Number BE_101](#)

BE_107: H Strouts

- My email to TWBC Dec 8, 2020

(a)

Hazel Strouts
Tue 12/8/2020 6:36 PM
Dear Stephen,

I regret having to say this, but it wasn't only the SEA which was missing. You will find the following documents also unavailable.

IA3Intelligent Plans' Health Check (Reg. 15 Draft)
IA4 BNDP Equality Impact Assessment
IA5TWBC Statement of Common Ground

The government on its website sets out the following:

"Consulting on, and publicising, a neighbourhood plan or Order

What is the role of the wider community in neighbourhood planning?

A qualifying body should be inclusive and open in the preparation of its neighbourhood plan or Order and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging neighbourhood plan or Order
- is made aware of how their views have informed the draft neighbourhood plan or Order.

Paragraph: 047 Reference ID: 41-047-20140306

Revision date: 06 03 2014"

We do not have all the documents on which you are asking us to comment. We are not being kept fully informed. And the deadline is Friday. We have precisely two days, assuming you are able to get these papers on line first thing tomorrow, to study and comment.

I believe the government requires us to have a minimum of 6 weeks.

Regards,

Hazel

- TWBC response Dec 9,2020

(b)

Stephen Baughen <Stephen.Baughen@Tunbridgewells.gov.uk>
Wed 12/9/2020 6:16 PM

Dear Hazel, Thank you for your email. I have extracted the relevant sections from Reg 15 and Reg 16 of the The Neighbourhood Planning (General) Regulations 2012 below:

Plan proposals

15. —(1) Where a qualifying body submits a plan proposal to the local planning authority, it must include—

(a) a map or statement which identifies the area to which the proposed neighbourhood development plan relates;

(b) a consultation statement;

(c) the proposed neighbourhood development plan; and

(d) a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.

(2) In this regulation “consultation statement” means a document which—

(a) contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;

(b) explains how they were consulted;

(c) summarises the main issues and concerns raised by the persons consulted; and

(d) describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.

16. As soon as possible after receiving a plan proposal which includes each of the documents referred to in regulation 15(1), a local planning authority must—

(a) publicise the following on their website and in such other manner as they consider is likely to bring the proposal to the attention of people who live, work or carry on business in the neighbourhood area—

(i) details of the plan proposal;

(ii) details of where and when the plan proposal may be inspected;

(iii) details of how to make representations....etc

Therefore, the information available on the TWBC website accords with the above.

Nevertheless, please find attached the two relevant documents: Intelligent Plans’ Health Check (Reg. 15 Draft) and BNDP Equality Impact Assessment. These will be placed on the TWBC website tomorrow.

There is no SoCG with TWBC at this stage.

Thanks

Steve

- TWLP Hospital Development Site



- Hospital architects plans for houses on 424/LS40b (SSP3)

Land at East End, Benenden
What could 47 homes look like?



[Back to Comment Number BE 107](#)

BE_109: Charlotte and Helen Mortimer

Images from full representation:





[Back to Comment Number BE_109](#)

BE_113: Savills for The Benenden Healthcare Society

Site Plan



Fig. 5 Map of potential cycle/footpath between East End and Benenden

[Back to Comment Number BE_113](#)

BE_121 – E & M Shapiro

Castelton's Oak Crossroads 20 Nov 2020 (Goddards Green Road)



[Back to Comment Number BE_121](#)

APPENDIX 1 – EXTRACT FROM KENT COUNTY COUNCIL HERITAGE REGISTER

Monument details

HER Number: TQ 83 SW 7

Type of record: Monument

Name: Possible beacon site, Beacon Hill, Benenden

Summary

A 16th century Beacon is thought to have formerly existed at an unknown location in Benenden. William Lambarde's "card" of c.1570 shows a beacon at Rolvenden and a total of 52 beacons in Kent. The beacon system dropped out of use after 1640. Placename evidence in this area indicates it may also have been the site of a Beacon. Inspection of Beacon Hill has so far provided no evidence this was once the site of such a structure.

Grid Reference: TQ 8245 3241

Map Sheet: TQ83SW

Parish: BENENDEN, TUNBRIDGE WELLS, KENT

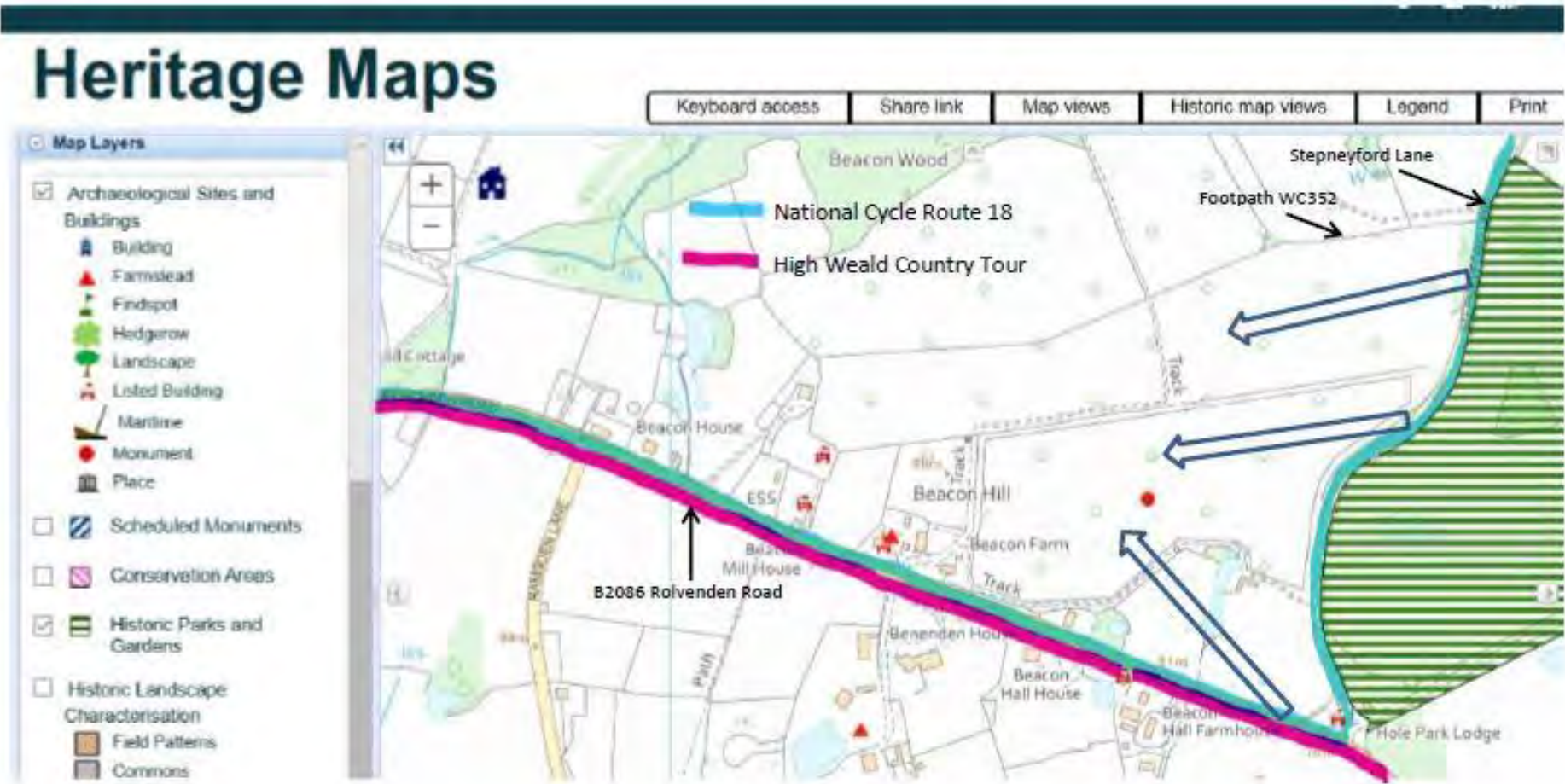
Monument Types

BEACON (Post Medieval - 1570 AD? to 1640 AD?)

Full description

If you do not understand anything on this page please contact us.

William Lambarde's "card" of c.1570 shows a beacon at Rolvenden and a total of 52 beacons in Kent. The beacon system dropped out of use after 1640 [Possibly at Beacon Hill (TQ 8232) in Benenden Parish] (see illust card). (1) Apart from several place names containing the Beacon element upon a hill-top 1.5m NW of Rolvenden, no further information has been found. Ground inspection was negative. (2)



Policy H 10

Rural Workers' Dwellings

Outside the Limits to Built Development as defined on the draft Policies Map, proposals for the erection of a rural worker's dwelling will not be permitted unless all of the following criteria are satisfied:

1. A functional test will be necessary to establish whether it is essential for the proper functioning of the enterprise for a full time worker, or one who is primarily employed in the business, to reside on the site to provide essential or emergency on-site care for agricultural, or business, or forestry purposes that could not be carried out satisfactorily by the worker living off-site; even with the use of up to date technology; and
2. No existing accommodation is suitable, or potentially suitable for the purpose of a rural worker, or there is no suitable building that could be converted to achieve the functional need; and
3. A dwelling has not been sold off separately from the site or holding during the previous 10 years, nor has the site formed part of a larger unit previously served by such a dwelling at any time during this period; and
4. The size and scale of the new dwelling would be appropriate for the purpose for which it would be required in relation to the income the unit can sustain and the needs of the business enterprise, and would provide reasonable family accommodation. An independent report will be required, showing the need for development and financial soundness of the business. This should cover existing and future requirements, and the number of workers that will be involved. It is expected that this report, and any assessment required to be undertaken by the Council, will be funded by the applicant; and
5. If the unit and business concerned has not been established for three years, the business will need to show it will be financially sound. If the unit and the business concerned has been established for at least three years, it should have been profitable for at least one of them, be currently financially sound, and have a clear prospect of remaining so; and
6. The location, scale, and design of the dwelling should not significantly harm the landscape and countryside character. See Policies EN 1: Design and other development management criteria, and Landscape Policies EN 20 and EN 21 for more detail;
7. In all cases, the granting of planning permission will be subject to conditions or legal agreement restricting the occupancy of the dwelling to rural workers, and permitted development rights will be removed.

Note: Temporary permission

If a new dwelling is required, it should be provided by a caravan in the first three years. There should be a firm intention and ability to continue with the business.

Temporary permission will not be granted in locations that would not permit a permanent dwelling. When temporary permission is granted, it should not be assumed that permanent permission will automatically follow, as functional tests on the need for, and the ability to sustain, the residence will need to be reapplied.

In all cases, the granting of planning permission will be subject to conditions or legal agreement restricting the occupancy of the dwelling to rural workers, and permitted development rights will be removed. Where the Local Planning Authority is concerned about misuse, the history of the holding will be investigated.

Policy ED 2

Retention of existing employment sites and buildings

Existing employment sites and buildings will be retained in their existing use or an alternative employment generating use to support the vibrant and balanced economy of the borough, taking into whether they:

1. Are well located to a main road and public transport networks; and
2. Provide, or are physically and viably capable of providing, through redevelopment, good quality modern accommodation attractive to the market; and
3. Are capable of meeting a range of employment uses to support the local economy.

Applicants seeking to redevelop/convert existing employment buildings and sites must demonstrate the following:

- a. Provide robust evidence to show that the site has been proactively marketed, at the appropriate price, and using relevant publications, for the existing use or other potentially suitable employment generating uses; and
- b. Provide evidence that there is no prospect of the existing buildings, or the partial or comprehensive redevelopment of the existing buildings, continuing for the current use; and
- c. Marketing must be for a period of at least two years at a time when the site is available, or will be available shortly, with an appropriate agent; and
- d. Where it has been demonstrated to the Council's satisfaction, through an independent assessment, that the current use is no longer viable and that there is no reasonable prospect of continued use or take up of other employment generating uses during the plan period, proposals for redevelopment must consider alternative uses in the following order:
 - i. Other business uses;
 - ii. All other non-residential, employment generating uses;
 - iii. Residential employment generating uses (C1, C2);
 - iv. A mixture of residential and employment generating uses, including 'live/work' units;

- v. Wholly residential schemes (C3).

Redevelopment of employment buildings and sites for mixed use may be permitted where such development:

1. Would facilitate the regeneration of the site to more effectively meet the needs of modern business; and
2. Where the employment capacity of the site, represented by commercial floorspace, is maintained; and
3. Where a mixed use development would represent a sustainable approach consistent with the general distribution of development.

The Council may require the review of submitted information by an independent consultant: it is expected that the applicant will cover the cost of this.

Policy ED 5

Conversion of Rural Buildings outside the Limits to Built Development

The Local Planning Authority will give priority to the retention and conversion of existing agricultural or other rural buildings for business, recreation, and tourism uses. The conversion of such buildings to residential use will only be permitted in exceptional circumstances in accordance with the criteria set out below.

Proposals for the conversion of an existing agricultural or other rural building outside the Limits to Built Development, as defined on the draft Policies Map, will be required to satisfy all of the following criteria:

1. Conversions to alternative uses shall not compromise the existing or likely future operation or management of the land for farming or forestry, or result in the need for further buildings as a result of displacement; and
2. The building is of permanent, substantial and sound construction and capable of conversion to the proposed use without significant reconstruction, modification, or additions. Any required extensions will be modest in size, and the minimum necessary for the use proposed; and
3. The proposed use will not be harmful to the character, amenity, and tranquility of the area; and
4. Proposed alterations to the building and provision of, or changes to, access arrangements shall be in keeping with the character and appearance of the building and its wider landscape setting in terms of materials, design, and form, and shall not cause harm to the local landscape character or features; and
5. A full programme of works detailing exactly what the conversion entails, from initial structural survey and analysis work through to completion, shall be submitted with any planning application. The programming of the work to be undertaken will be controlled by way of a planning condition attached to any permission granted; and
6. The building should be capable of conversion without requiring additional outbuildings or a material or significant change to the setting of the building; and
7. The curtilage of the building shall be drawn as tightly as possible, while allowing adequate space for parking/turning for the proposed use, and the storage of business equipment where applicable, without detriment to the visual amenities of the countryside or the local landscape character; and
8. The new development shall not significantly increase traffic to cause material harm to the safety of the local highway network; and
9. Landscaping proposals (hard and soft landscaping), including details of sensitive boundary treatments and any changes in levels, shall be designed to enhance both the immediate landscape setting of the building and the wider rural locality.

Additionally, for residential conversions:

- a. The building shall be worthy of retention for its historic or architectural value and makes a positive contribution to the landscape character, or is required as part of a whole farm plan and no other use is viable; and
- b. The building should be in a sustainable location in relation to existing services and facilities and provide safe options for non-motorised forms of transport to these services; and

- c. It shall be demonstrated that the living conditions of future occupiers will not be harmed by proximity in relation to existing neighbouring uses, including farm activity (such as the movement of farming equipment, livestock, crop spraying), noise, and odours; and
- d. It has been clearly demonstrated that reasonable attempts have been made, without success, to secure a business reuse for the building and that uses other than residential are not viable. This should include details of active marketing at an appropriate value/rate and any interest received for a minimum period of two years.

Where a conversion is permitted for tourism accommodation, a holiday occupancy condition will be attached preventing the use as a sole or main residence.

In order to protect the character of the building and the landscape, and particularly in sensitive locations, such as the Area of Outstanding Natural Beauty and Green Belt, permitted development rights for extensions, alterations, outbuildings, hardstanding, and boundary treatments may be removed and external lighting strictly controlled.

- 6.127** There is considerable concern, given the high quality of much of the rural environment of the Plan area and the pressures for development that exist, that permitted development rights in respect of agricultural buildings should not be abused as a way of obtaining residential development in the countryside. The Local Planning Authority will, in accordance with Government advice, examine the history of buildings recently erected under agricultural permitted development rights, where these come forward with proposals for changes of use. Where such a building has been erected and falls out of agricultural use within 10 years, the building should be removed and the site restored to its condition before the building was erected. If a building has been recently erected (within the last four years) for a specific agricultural purpose and then proposals are brought forward for a change of use out of agriculture, the Local Planning Authority will carefully investigate the history of the building and consider the consequences of its conversion. Where the conversion of existing buildings would lead directly to a need for a replacement building and this could have a significant detrimental effect on the landscape, the Local Planning Authority will consider the need to attach a condition to the permission removing permitted development rights for the erection of new buildings.

APPENDIX 7 – SUMMARY OF USE CLASS E

Class E - Commercial, Business and Service

Class E is introduced from 1 September 2020.

In 11 parts, Class E more broadly covers uses previously defined in the revoked Classes A1/2/3, B1, D1(a-b) and 'indoor sport' from D2(e):

- **E(a)** Display or retail sale of goods, other than hot food
- **E(b)** Sale of food and drink for consumption (mostly) on the premises
- **E(c)** Provision of:
 - **E(c)(i)** Financial services,
 - **E(c)(ii)** Professional services (other than health or medical services), or
 - **E(c)(iii)** Other appropriate services in a commercial, business or service locality
- **E(d)** Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)
- **E(e)** Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
- **E(f)** Creche, day nursery or day centre (not including a residential use)
- **E(g)** Uses which can be carried out in a residential area without detriment to its amenity:
 - **E(g)(i)** Offices to carry out any operational or administrative functions,
 - **E(g)(ii)** Research and development of products or processes
 - **E(g)(iii)** Industrial processes

Policy EN 7

Heritage Assets

Proposals that affect a designated or non-designated heritage asset, or its setting, will only be permitted where the development conserves or enhances the character, appearance, amenity, and setting of the asset; and in the case of historic parks and gardens, provides, where possible, improvement of access to it.

Applications will be assessed with reference to the following:

1. The historic and/or architectural significance of the asset;
2. The prominence of its location and setting; and
3. The historic and/or architectural significance of any elements to be lost or replaced.

Proposals should also comply with the advice set out in the Conserving and Enhancing the Historic Environment Section of the NPPF (and any subsequent versions).


Any development that might directly or indirectly affect the significance of a listed building, conservation area, historic park and garden, scheduled ancient monument, historic landscape (including ancient woodland and veteran trees), archaeological site, or local heritage asset, will be required to submit a heritage statement, and/or where applicable, an archaeological assessment and/or management plan as above for historic parks and gardens, with any planning application, which can be included within a design and access statement. This includes development affecting their setting.

The assessment of proposals should make reference to the Tunbridge Wells Borough Historic Environment Review, the Council's List of Local Heritage Assets, which includes buildings and historic parks and gardens of local importance, and relevant guidance. Although the Council does not hold an exhaustive list of non-designated heritage assets, it should be noted that these are often identified at the application stage of any proposal.

Should permission be granted for the removal of part or all of a heritage asset, the Local Planning Authority will not permit the removal or demolition of the heritage asset until it is proven that the approved replacement development will proceed.

APPENDIX 9 – MOBILE COVERAGE

1. Benenden School

**Ofcom**
making communications work for everyone

Mobile and broadband checker

English

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View mobile availability

Please enter your postcode below to view mobile availability in your area, or click the button to enable the site to find your location.

TN17 4AA

Change location

Search your address

Indoor

Outdoor

4G

No 4G

	Voice	Data	Enhanced data
EE	✓	✓	✓
O2	✓	✓	✓
Vodafone	✓	✓	✓
Three	✓	✓	✓

Find out what these results mean ?

View map of available services >

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Mobile and broadband checker

English

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View mobile availability

Please enter your postcode below to view mobile availability in your area, or click the button to enable the site to find your location.

TN17 4AX [Change location](#)

Select your address

Indoor Outdoor

4G No 4G

	Voice	Data	Enhanced data
EE	✓	✓	✓
O2	✓	✓	✓
Vodafone	✓	✓	✓
Three	✓	✓	✓

[Find out what these results mean ?](#) [View map of available services >](#)

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Mobile and broadband checker

English

Home View broadband availability View mobile availability Run a speed test

View mobile availability

Please enter your postcode below to view mobile availability in your area, or click the button to enable the site to find your location.

TN17 4DB [Change location](#)


Select your address

Indoor Outdoor

4G No 4G

	Voice	Data	Enhanced data
EE	✓	✓	✓
O2	✓	✓	✓
Vodafone	✓	✓	✓
Three	✓	✓	✓

[Find out what these results mean ?](#) [View map of available services >](#)

 **Mobile and broadband checker** English ▾

[Home](#) [View broadband availability](#) [View mobile availability](#) [Run a speed test](#)

View mobile availability

Please enter your postcode below to view mobile availability in your area, or click the button to enable the site to find your location.

TN17 4HQ

📍 Change location

Indoor

Outdoor

4G

No 4G

	Voice	Data	Enhanced data
EE	✓	✓	✓
O2	✓	✓	✓
Vodafone	✓	✓	✓
Three	✓	✓	✓

Find out what these results mean ?

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CAAV

Professionals in the Countryside



WEBSITE NOTE

2nd January 2020

COMMUNICATIONS MASTS - RADIATION EXCLUSION ZONES FOR 5G

Summary – why this matters

Base stations transmit and receive radio waves to connect the users of mobile phones and other devices to mobile communications networks. As non-ionising radiation, these waves can affect health but only at significant levels of exposure.

The ICNIRP international guidelines set minimum exclusion zones from which the general public should be excluded and smaller exclusion zones from which even those trained to work in such areas must be excluded, unless the equipment is switched off. Those exclusion zones are significantly larger for 5G equipment than for 4G and can extend to neighbouring land or buildings.

For planning purposes, operators are only required to self-certify that they meet the guidelines. There is no independent or regulatory body which checks or monitors communications sites for compliance.

Site providers should be aware of their obligations to their employees, contractors, visitors and neighbours. They may wish to ask for plans showing the likely exclusion zones, especially where equipment upgrades are proposed or have taken place. Operators may seek to limit their liability when agreeing new terms and site providers will need to satisfy themselves that the terms proposed are fair and reasonable in this respect.

Mobile Phone Masts, Radiation and Safety – Background

Base stations transmit and receive radio waves to connect the users of mobile phones and other devices to mobile communications networks. As non-ionising radiation, these waves can affect health but only at significant levels of exposure.

The radio-wave exposure level produced by a base station:

- depends on its output power, with the strength of the radio waves reducing rapidly with distance
- the directional characteristics of its transmitting antennae
- where people can be exposed in relation to the antennae.

The first two are under the control of the operator and can be varied. While the levels of ionising radiation at locations where the public can be exposed tend to be small, antennae have safety zones around them that may:

- exclude or restrict access for the public in a wider zone
- control access for appropriately trained staff and contractors within a more limited zone.

CAAV WEBSITE NOTE

2nd January 2020

Communication masts – radiation exclusion zones

The ICNIRP Guidelines for Exclusion Zones

These exclusion zones are established within guidelines set by the International Commission on Non-ionizing Radiation Protection (ICNIRP) and adopted by the UK Government and the electronic communications industry since 2000, with the support of the Radiation Protection Division of the Health Protection Agency. These Guidelines can be seen at:

<https://www.icnirp.org/cms/upload/publications/ICNIRPemfdl.pdf>

These international Guidelines were written to respond to concern about the risks to health, primarily cancers, from electric, magnetic and electromagnetic fields (EMF) by providing a framework based on independent scientific advice:

“establish guidelines for limiting EMF exposure that will provide protection against known adverse health effects”

from detrimental exposure to radio waves and other electromagnetic radiation, light and sound waves. These types of waves are called non-ionising radiation (NIR) as they do not have enough energy to remove electrons from matter (ionise it) which X-rays and gamma rays can.

ICNIRP is formally recognised by the World Health Organization (WHO) and the International Labour Organization (ILO). Its Guidelines have been adopted (with minor adjustments) by the European Union by 1999/519/EC: *Council Recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)*:

“advice on this matter has been given by the International Commission on Non-Ionising Radiation Protection (ICNIRP) and has been endorsed by the Commission's Scientific Steering Committee” (Recital 10)

and recently again affirmed by the European Commission answering a question in the European Parliament in May 2019:

“Protection of public health ...is always taken into account. In particular, the strict and safe exposure limits for electromagnetic fields recommended at EU level by Council Recommendation 1999/519/EC on the exposure of the general public to electromagnetic fields apply for all frequency bands currently envisaged for 5G. The 5G Infrastructure Public Private Partnership (5G PPP) ... develops systems designed to operate well below the safe health limits of electromagnetic emissions defined by Council Recommendation 1999/519/EC...”

(http://www.europarl.europa.eu/doceo/document/P-8-2019-001526-ASW_EN.html)

Even after Brexit, and the end of the proposed transition period, the Withdrawal Act carries forward such EU provisions until they are altered domestically, when ICNIRP's advice will still be persuasive.

Operators are aware of and will have mapped the extent of these exclusion zones around their antennae within which a risk is posed that is to be managed by excluding the public. These zones may extend well beyond areas under their control or within their agreements. However, there is no formal procedure requiring operators to notify site owners, neighbours, or the public of these areas.

These zones are typically at a radius around the antenna, governed by its direction. Depending on the height of the antenna, its exclusion zones are typically above ground level but, even then, act to exclude the public from areas in the zone at those heights, including in or on neighbouring buildings. This means that the fact that there is an antenna is relevant to the use of areas around it and so can limit what may be done with it on health grounds.

ICNIRP explains the distinction made between exposure for those in work (occupational) and the general public as reflecting the difference between workers as active adults aware of the risk and taking precautions compared to the general public, including susceptible individuals and those unaware of being exposed to risk:

"The occupationally exposed population consists of adults who are generally exposed under known conditions and are trained to be aware of potential risk and to take appropriate precautions. By contrast, the general public comprises individuals of all ages and varying health status, and may include particularly susceptible groups or individuals. In many cases, members of the public are unaware of their exposure to EMF. Moreover, individual members of the public cannot reasonably be expected to take precautions to minimise or avoid exposure. It is these considerations that underlie the adoption of more stringent exposure restrictions for the public than for the occupationally exposed population."

Thus, the exclusion zone round a mast is much greater for the general public than the occupational one. However, while the operator is able to undertake and revise this assessment for its staff, there is no requirement on an operator to make the exclusion zones known to the site provider, public authorities or anyone else and none of these have the information on which to do it themselves.

As the ICNIRP guidelines note:

"Measures for the protection of workers include engineering and administrative controls, personal protection programs, and medical surveillance (ILO 1994). ... Personal protection measures ... should be regarded as a last resort."

It appears that ICNIRP's thinking in this area has developed to focus on awareness of exposure since the Guidelines were issued in 1998 as correspondence earlier this autumn from ICNIRP advises:

"However, our present thinking is better expressed in the text you cite from the draft (and soon to be published) RF guidelines document. We consider that awareness of exposure is key in order to allow training and understanding of the risks. A person who is paid to do to roofing (sic), say, near a mobile phone base station may be no better informed about the risks of exposure than someone who works at home. In the new guidelines, we also add the proviso that workers are considered to be healthy, to differentiate them further from the general public (who will most certainly contain some people who are ill)."

Thus, unless they have explicit training or understanding, even paid employees should be considered members of the public, and so be less exposed to RF fields than those considered acceptable for workers aware of the risk.

That still leaves the conundrum of how anyone is made aware of the boundaries of the exclusion zones, whether occupational or public.

The Difference Between 4G and 5G Radio Waves

To date, 4G and previous systems have used radio waves with a long enough wave length that antennae are shielded to limit the power of the associated non-ionising radiation and so its potential health effects while still being effective for communications.

However, the spectrum being used for 5G communications has wave lengths so short that such shielding is not possible without compromising the communications using it. That means the exclusion

CAAV WEBSITE NOTE

2nd January 2020

Communication masts – radiation exclusion zones

zones for 5G antennae are substantially larger and so have a wider impact than for 4G, often extending to land beyond the agreement with a site provider and more likely to affect neighbours.

As an illustration, the public exclusion zone round a 20m mast might extend out to 19.6m for 4G but as far as 55.5m when that mast is used for 5G, excluding the public from perhaps nearly 2,200m² at 4m above ground level. These exclusion zones are not generally made public.

That difference in the impact of the exclusion zones may drive an increase in the height of an antenna as part of upgrading it to 5G.

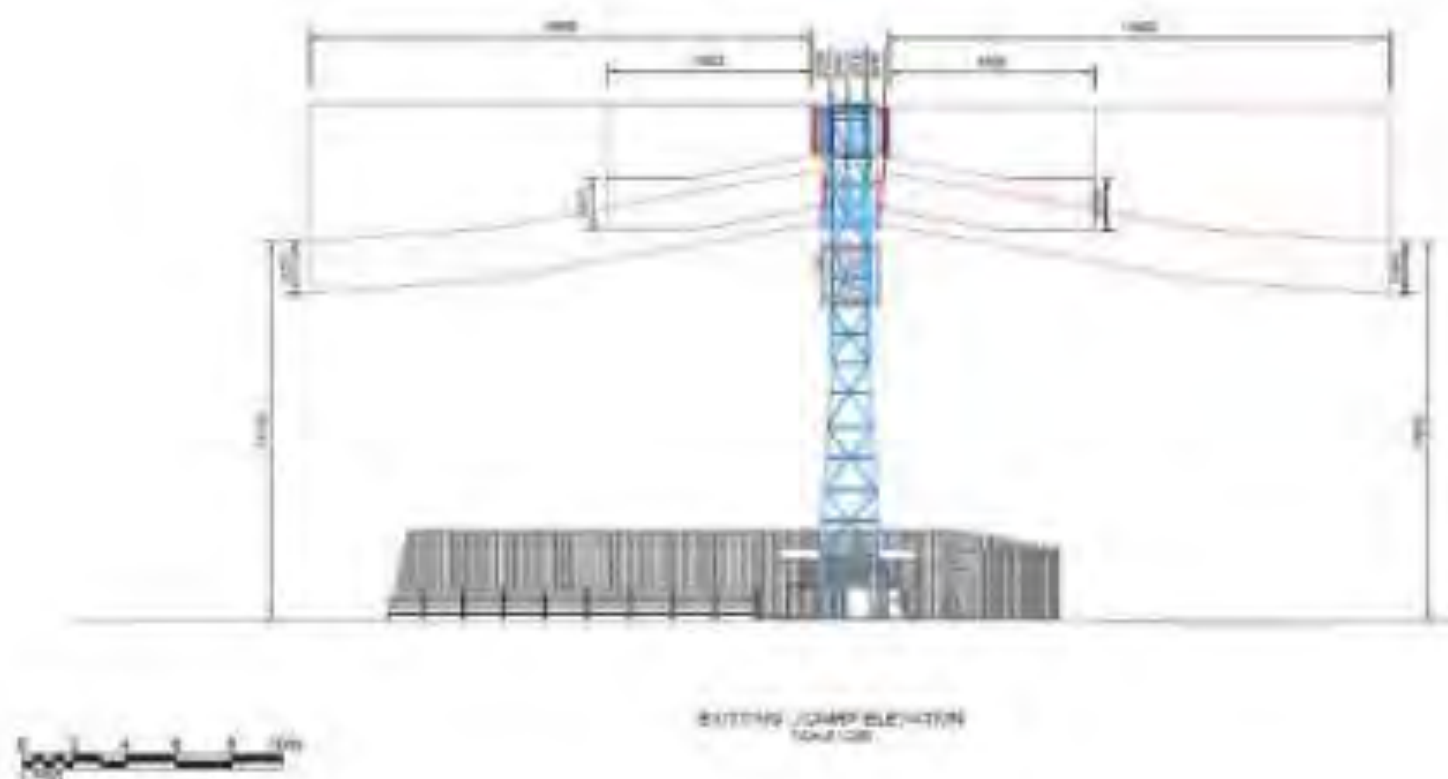
Examples of Exclusion Zones Around an Antenna

Using the example of a single user 20m mast, the different exclusion zones for a single 4G antenna and for a 5G antenna are shown in the illustrations below with:

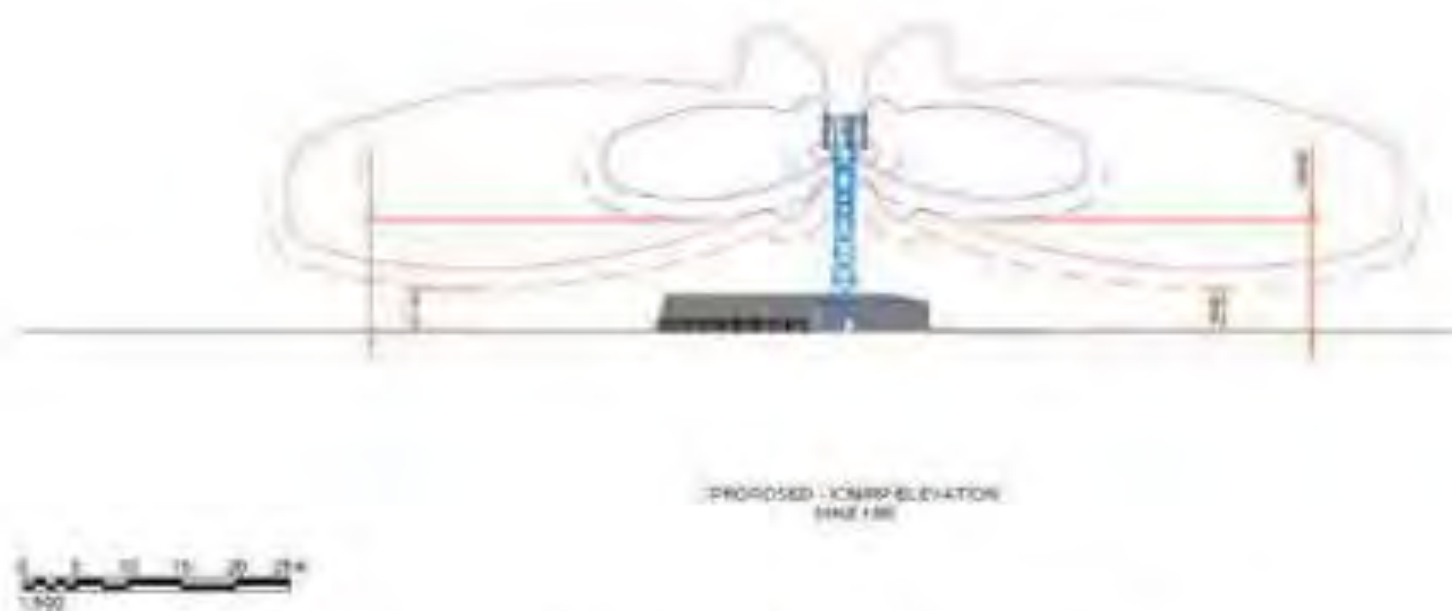
- the area outlined in red showing the zone from which the public is excluded
- the area outlined in blue marking the “occupational exclusion zone”, the area from which appropriately trained staff and contractors are excluded.

As the height of the antenna typically means that these zones are at least 4m above ground level, they are most relevant where there are buildings in the vicinity, whether now or likely to be developed, as well as for those working at height. ICNIRP expressly leaves it to national policies to consider such situations as farmworkers in relevant fields (see ICNIRP Q17).

Example 1 - 4G ICNIRP Exclusion Zone



Example 2 – 5G ICNIRP Exclusion Zone



Example 3 – Plan View Illustrating Possible Interactions with Buildings

Grey shows 4G public exclusion zone and pink shows 5G public exclusion zone

4G & 5G network exclusion zone (plan view)



Relationship with Planning Control of Mast Locations

The potential health impact of the use of a mast is a legitimate and material consideration for development control.

The Government commissioned the Stewart Report (May 2000; updated in January 2005) to review the possible health effects from base stations, transmitters and mobile phones. It recommended that: “a precautionary approach should be taken to the use of mobile phone technologies until more detailed information on any health effects becomes available”.

Since 2000 the Government and the industry have, in keeping with this precautionary approach, adopted the position that it is fully satisfied by following the ICNIRP guidelines. Thus, Government policy, as, for example, first set out for England in PPG 8, is that:

“if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary ... to consider further the health aspects and concerns about them.”

The National Planning Policy Framework (NPPF) for England now states:

115. Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

-
- (b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed international Commission guidelines on non-ionising radiation protection; or
- (c) for a new mast or base station ... a statement that self-certifies that, when operational, international Commission guidelines will be met.

116. Local planning authorities must determine applications on planning grounds only. They should not ... set health safeguards different from the international Commission guidelines for public exposure.

The equivalent development control policies in other parts of the United Kingdom are set out in the Appendix to this paper but, in summary:

- Scotland and Northern Ireland similarly ask simply for self-declaration by the applicant operator
- Wales requires the development to meet the ICNIRP guidelines without specifying how this is to be proved.

In procedural terms, the minimum required for an operator applying for planning permission for a mast is confirmation that, in the operator's opinion, the mast complies with the ICNIRP guidelines. However, the operator is not required to show the boundaries with which the public should be excluded on grounds of risk.

That confirmation (but nothing more) will have been required for any planning application for a mast made since 2000.

With no formal independent mechanism for identifying these zones, they are self-assessed by the operators making the planning applications. With the key data for this, such as the frequency and power output, known only to the operator which may then vary them, it appears difficult to obtain independent verification of:

- the assumptions on which the exclusion zones have been defined
- the possible variations in judgment that might be applied to the basic data
- whether the current position has changed since the assessment for the planning application was made.

Where a planning application is made, all that can be said is that, while the operator will have certified compliance with ICNIRP guidelines, it will not necessarily have made known the boundaries within which the public should be excluded on safety grounds. That means that the planning authority is unable to assess the effect of the mast on other buildings, land or activities.

While generally referred to, ICNIRP, as an international standard setting body that sets overall guidelines, does not itself issue certificates to verify the safety of any installation. No independent, official or regulatory body in the United Kingdom does so either. Compliance and the identification of potentially dangerous zones is self-declared by operators rather than independently assessed. While Ofcom regulates the operation of mobile networks use of radio frequencies, it has no duties related to the recommendations for exposure to electromagnetic field emissions.

In summary, operators merely have to make a declaration to the planning authority that their design currently meets the ICNIRP guidelines. Neither the planning process nor Ofcom nor any other official body act as a regulatory check on that self-declaration as to compliance.

Not even that will have been said where masts are erected under permitted development rights.

Similarly, no certification is required where a mast is upgraded using permitted development rights, as where a 4G antenna is replaced by a 5G one, potentially increasing the area subject to the ICNIRP exclusion zone by a substantial extent.

What Should a Site Provider Do?

General – With practical effects of the issues here for the public in general, the site provider and its visitors, staff, and contractors, the site's neighbours and the operator's staff and contractors, and so the consequent possibility of liabilities, a site provider should ask the operator for:

- full ICNIRP drawings
- site specific radio frequency (RF) projection plans

so that the exclusion zones can be clearly understood and enable the site provider to comply with its legal requirements.

That plan and any associated advice might be asked for easily when discussing a potential mast site and the agreement for it; indeed, a site provider might be disturbed should an operator, wanting a site, not assist with this. With importance of the potential limitations on the use of buildings and land and for the management of staff and visitors, site providers should also:

- ask for this as necessary information

- ask again when understanding that there has been a significant upgrade to the site, such as a change from 4G to 5G.

When negotiating a new agreement, terms for the provision of this information should be included. A request might also be made as part of a rent review or other event within the period of an agreement.

A neighbour may anyway ask a site provider or approach an operator directly for such information where relevant to other land.

The site provider should carefully consider the impact of the exclusion zones as part of reviewing any new agreement or upgrade request as well as any Health and Safety policies.

These may be relevant to existing adjacent uses or intended development.

With these issues attracting more attention, some operators state to site providers that only workers with specific radio frequency training should visit a rooftop with a mast – and no one else. That may mean that such workers have to carry and use a personal RF monitor which would have to be provided with its cost. It is understood that ordinary rooftop training courses do not cover radio frequency issues.

Indemnities – Operators are seeking to exclude themselves from such potential liabilities in agreements. That passes the risk to the site providers as regards liabilities to staff, existing and neighbouring occupiers and the public. Care is required in any negotiated agreement to ensure that the commercial terms do not expose the site provider to liability in this respect.

Care for Employees – Site providers with employees have duties under the Health and Safety at Work Act and allied legislation. They need to consider the Control of Electromagnetic Fields at Work Regulations 2016 ([CEMFAW Regulations](#)). A Schedule to CEMFAW explains the effects of electromagnetic fields (EMFs), sets out limits and provides details of safety conditions which must be met and so governs the levels of EMFs to which employees may be exposed. CEMFAW expects employers to:

- ensure that exposure is below exposure limit values (ELVs);
- take action if employees are exposed to EMFs in excess of the ELVs;
- when appropriate, devise and implement an action plan to ensure compliance with the exposure limits;
- when appropriate, assess the risks of employee's exposure and eliminate or minimise those risks. Ensure you take employees at particular risk, such as expectant mothers and employees with active or passive implanted or body worn medical devices, into account.
- provide information and training on the particular risks (if any) posed to employees by EMFs in the workplace and details of any action you are taking to remove or control them. This information should also be made available to their safety representatives as appropriate; and
- provide health surveillance or medical examination as appropriate.

Further guidance is given by the European Agency for Health and Safety at Work in its three volume publication, *Non-binding guide to good practice for implementing Directive 2013/35/EU Electromagnetic Fields*, available at <https://osha.europa.eu/en/legislation/guidelines/non-binding-guide-good-practice-implementing-directive-201335eu>. It is aimed mainly at helping employers in small and medium enterprises (SMEs) understand what they will need to do to comply with that EU Directive laying down the minimum safety requirements regarding the exposure of workers to risks arising from electromagnetic fields (EMF), but it suggests that it may also be useful to Member State regulatory authorities. Volume 2 offers case studies, including one for a roof antenna. The third volume is a 24 page guide for SMEs on carrying out an initial assessment.

Terms for the Agreement - Site providers may wish to include contractual provisions that:

- ensure that operators provide free of charge timely information to ensure that site providers are able to fulfil their duties under CEMFAW Regulations
- hold operators liable for all losses and claims arising out of radio frequency hazards from sites (including consequential loss etc)
- limit an operator's ability to increase exclusion zones during the term of an agreement
- ensure that site providers have the ability to require the operator to switch the apparatus off (at no cost to the site provider) where this is necessary for work to be carried out in the exclusion zones
- make operators liable for the cost of staff training in respect of RF hazards where such staff are potentially likely to be working in proximity to exclusion zones.

Consideration for Other Occupiers and Neighbours - if exclusion zones extend into other ownerships or occupations, site providers may need to consider obtaining an indemnity from the operator in the event of that landowner or occupier taking action against them.

APPENDIX

ICNIRP GUIDELINES AND DEVELOPMENT CONTROL IN WALES, SCOTLAND AND NORTHERN IRELAND

Wales

Planning Policy Wales (Edition 10) states:

5.2.15 Provided that the development meets the International Commission on Non-ionising Radiation Protection (ICNIRP) guidelines, planning authorities should not consider the health aspects of mobile telecommunication equipment. All new base stations are expected to meet the ICNIRP guidelines.

5.2.16 Planning authorities should not implement their own precautionary policies, such as imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunications development and existing development.

Scotland

Scottish Planning Policy (2010) states:

252. Planning applications for communications equipment should be accompanied by the following supporting material:

- a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines³⁰, and

253. Planning authorities ... must determine applications on planning grounds. ... Emissions of radiofrequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration. To demonstrate to planning authorities that the known health effects have been properly addressed, applications for planning permission involving antennas to be employed in an electronic communications network should be accompanied by a declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radiofrequency radiation.

Northern Ireland

Strategic Planning Policy Statement (2015) states:

6.244 Applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields.


Also PPS 10, Telecommunications (2002):

https://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance/pps10.htm

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APPENDIX 11 – BROADBAND AVAILABILITY

1. Benenden School



Mobile and broadband checker

English

[Home](#)
[View broadband availability](#)
[View mobile availability](#)
[Run a speed test](#)

View broadband availability

Please enter your postcode below to view broadband availability in your area, or click the button to enable the site to find your location.

TN17 4AA

Change location

Select your address

This table shows what broadband services are available in your area.


	Highest available download speed	Highest available upload speed	Availability
Standard	12 Mbps	1 Mbps	✓
Superfast	67 Mbps	18 Mbps	✓
Ultrafast	—	—	✗

Find out what these results mean ?

View map of available services >

2. Benenden Hospital / East End

APPENDIX 11 CONTINUED



Mobile and broadband checker

English

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View broadband availability

Please enter your postcode below to view broadband availability in your area, or click the button to enable the site to find your location.

TN17 4AX

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Select your address

This table shows what broadband services are available in your area.

	Highest available download speed	Highest available upload speed	Availability
Standard	4 Mbps	0.5 Mbps	✓
Superfast	—	—	✗
Ultrafast	—	—	✗

Find out what these results mean ?

View map of available services >

3. Centre Benenden

APPENDIX 11 CONTINUED

Ofcom making communications work for everyone

Mobile and broadband checker

English

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TN17 4DB [Change location](#)

Select your address

This table shows what broadband services are available in your area.

	Highest available download speed	Highest available upload speed	Availability
Standard	20 Mbps	1 Mbps	✓
Superfast	80 Mbps	20 Mbps	✓
Ultrafast	--	--	✗

[Find out what these results mean ?](#) [View map of available services >](#)

4. Iden Green

APPENDIX 11 CONTINUED

Ofcom making communications work for everyone

Mobile and broadband checker

English

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View broadband availability

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TN17 4HQ [Change location](#)

Select your address

This table shows what broadband services are available in your area.

	Highest available download speed	Highest available upload speed	Availability
Standard	13 Mbps	1 Mbps	✓
Superfast	73 Mbps	20 Mbps	✓
Ultrafast	--	--	✗

[Find out what these results mean ?](#) [View map of available services >](#)

How WiFi calling works

What is WiFi calling and what are its benefits?

WiFi calling is a network feature, which lets your phone use WiFi signal to make/take calls and sometimes also send/receive SMS text messages, instead of conventional mobile signal.

The advantage of this is straightforward: if you're in an indoor blackspot that mobile signal can't get to, like underground or in a thick-walled building, you can still use your phone if there's WiFi there.

When you make a call or send a text over WiFi calling, it comes out of your regular mobile allowance (or it's charged at your normal rate on pay as you go). People calling you just dial your usual mobile number.

At the moment, WiFi calling is only offered by a few networks in the UK (see further down page). And it's mostly the big 4 providers where you can get it. But some of the smaller ones are just starting to offer it too.



✓ Stay connected when there's no mobile signal

What we think makes a good WiFi calling scheme...

Below, we've listed all the networks that have WiFi calling and ranked which ones we think have the best schemes. The best WiFi calling scheme will...

- 1) Make and take high quality calls without making you do anything differently
- 2) Allow you to send and receive conventional SMS text messages too
- 3) Let you move away from WiFi mid-call without dropping your call
- 4) Work with as many makes and models of phones as possible

We've looked at every network's schemes and ranked them on how well they live up to all this.



✓ The easiest, most-accessible scheme will win

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