

Benenden Neighbourhood Development Plan 2020 - 2036

Initial Comments of the Independent Examiner

Prepared by

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Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Benenden Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I have visited Benenden Parish on two occasions. I drove around the parish to familiarise myself with the 3 settlements and the location of the allocation sites on Saturday 27th February and I returned to make a more detailed site visit on Monday 22nd March, where I was able to gain access to two of the residential allocation sites - the south west quadrant of Benenden Hospital site and Uphill. I saw the proposed local open spaces and I walked across Hilly Fields.
2. I also ventured across the parish boundary into the neighbouring Biddenham Parish and noted the location of properties in Mockbeggar Lane.
3. I have not yet come to a view as to whether it will be necessary for me to call a public hearing to assist my examination. To some extent that will depend on the responses I receive to the matters which I raise in this note. Most of the questions are seeking either clarification or further comments / information from the Parish Council or in some cases from Tunbridge Wells Borough Council. Such requests are quite normal during the examination process.
4. I am somewhat unusually at this stage, also seeking the views of a number of parties who submitted comments at the Regulation 16 stage which will help me understand their perspectives a little better.

Strategic Policies

4. Can the Borough Council confirm which Local Plan policies are, for the purpose of the basic condition, the strategic policies that the neighbourhood plan has to be in general conformity with? Please note that draft local plan policies in the Pre-Submission version of the Local Plan cannot be treated as strategic policies for the purpose of meeting the basic conditions test, as these are still subject to consultation and examination.

Timeframe for the Neighbourhood Plan

5. I note that the plan period for the neighbourhood plan is 2020 to 2036, whilst the emerging Local Plan runs until 2038. Does the Parish Council wish me to consider extending the plan period to coincide with the local plan and can the Borough Council and the Parish Council offer a view as to whether, by extending the plan period by 2 years, this will change the housing requirement the neighbourhood plan needs to be making provision for.

Overall Housing Numbers

6. Can the Parish Council expand on how it has arrived at the number of new homes to be built within the plan period? Is it based on the sum of the site capacities, on the sites it is seeking to allocate for residential development or is

there some other basis, perhaps related to housing need or where has then been a proportional distribution by relating the population of the parish to the amount of housing that Tunbridge Wells needs to be delivering? To what extent has the Borough Council identified the amount of housing the parish needs to be making provision for and to what extent is it driven by the Parish's own aspirations? I note the reference to the Benenden Parish Plan 2015, which refers to housing growth equating to 1% per year but I do not know why that figure was arrived at or what status that plan had– is there some assessment of local housing need that is driving that figure? I am aware that the Parish has been very alert to the affordable housing need through the setting up of a Community Land Trust?

7. Has the Borough Council set out its views as to the amount of housing the neighbourhood plan needs to be providing for, as set out in Paragraph 65 of the NPPF?
8. Can I be provided with a copy of the 2015 Parish Plan.

Limits to Built Development

9. There appears to be a minor disparity between the boundary where it crosses the land adjacent to the Feoffee Cottages allocation site, which is shown as a straight line in the neighbourhood plan whilst the draft local plan has a slight angled boundary. Should the two plans be identical or is there a reason for the slightly larger site in the neighbourhood plan?
10. Policy LE1 refers to the Limits to Built development “as defined in the Local Plan” – the version of the new local plan needs to be inserted into the policy – Could TWBC advise how that could be dealt with?

Community Infrastructure Levy

11. Can the Borough Council set out its intentions with regard to the introduction of a Community Infrastructure Levy Scheme- is it committed to introducing such a scheme, subject to appropriate examination? Has consideration been given as to what infrastructure will be funded by CIL e.g. enhancement to school places?

Policy LE1 – Protect and Enhance the Countryside

12. Does the reference to distinctive views in c) not duplicate Policy LE2?
13. Can I request that the Figures 10 and 11 be shown at full A4 size to aim their legibility?

Policy LE2 - Distinctive Views

14. The second paragraph of the policy appears to be duplicating Policy LE1 a).Is that necessary?

Policy LE3 Local Green Spaces

15. I note that there is a degree of duplication with the designation of local green spaces between the draft Local Plan and this neighbourhood plan policy. If the neighbourhood plan is made before the draft local plan is adopted, will the local

plan designations still be pursued by the Borough Council as this appears to be not a strategic policy and Secretary of State advice is not to duplicate policy unnecessarily?

16. I will be proposing to list the local green spaces designated in the policy.
17. Can the Parish Council clarify whether the memorial bench on the slope of Hilly Fields site was placed there by the owners of the land for their own use or is it a public amenity?

Policy LE6 – Ecological and Arboricultural Site Surveys

18. Can the Borough Council set out the requirements of the Local Validation Checklist in terms of which planning applications are required to be accompanied by ecological or arboricultural surveys?

Policy HS1 – Site Allocations and Number of New Dwellings

19. Can the Parish Council clarify whether the figures in the policy are net or gross figures? For example, the redevelopment of Site Reference LS41 will demolish 18 units to be replaced by 22- 25 units, thereby delivering a net increase in 4- 7 dwellings or is the plan proposing that 40 – 43 dwellings are to be built on the site?
20. Does the Parish Council have a view as to whether the housing numbers should be described as minimum figures?

Policy HS2 – Delivering a Balanced Community

21. Can I be provided with a link to the TWBC Strategic Housing Needs Assessment and the Housing Needs Study?
22. Is the intention that b) refers to the property being *suitable* for older residents and can the Parish Council confirm that it is not expecting to see local connection restrictions imposed to meet the requirements of c). How is the requirements in a) consistent with the requirement 1 of Site Specific Policy (SSP1) which refers to affordable housing adhering to the almshouse principle?

Policy HS3 – Almshouses

23. Can the Borough Council confirm whether the planning consent, which is proposed to be granted on the Feoffee site is limited to “almshouses” or does it allow other forms of affordable housing. Planning permission run with the land rather than being personal to a particular landowner and is the Parish Council promoting this type of tenure in other affordable housing schemes throughout the parish?

Policy HS4 Live / Work Units

24. Can the Parish Council explain why, if a residential use is acceptable in a location e.g. with the LBD, why would there be a need to prevent the building subsequently only being used for purely residential purposes?

Policy HS6 Housing Density

25. Would the Parish Council accept the need for some flexibility on the matter of density, if the plan's aspirations for more flats, maisonettes and properties for people to down size to, are to be delivered?

Site Allocations

26. I note that the Pre-Submission Version of the Local Plan also allocates the same four sites for development, but the contents of the respective policies differ. Is there merit in the policies, at least having the same policy expectations within them? For example, if the neighbourhood plan is made first, then I understand that the intention of the Borough Council is to withdraw these allocations from the Local Plan and in which case, the requirements which are only found in the local plan, and are not within the neighbourhood plan, will be lost. Is there scope for at least a consistent approach to the policy requirements and would further discussions between the two parties be helpful? I would then be able to consider whether to accept any possible modification in my recommendations.

Site Specific Policy (SSP1)- Land Adjacent to Feoffee Cottages

27. Can I be provided with a link to the planning history and can the Borough Council confirm whether all the requirements of the policy, are being met with this approved scheme.
28. Can the Parish Council elaborate on what it considers are the "almshouse principle" and how does that differ from other forms of affordable housing?

Site Specific Policy (SSP3) -Land at Benenden Hospital

29. Can I be provided with a copy of the planning permission granted in 2012 which included consent for 24 houses. Can I be provided with a copy of the layout that was approved. I am assuming that is still an extant consent. Would that allow for the demolition of the Garland Wing without any further consents?
30. Could the Borough Council or Savills, on behalf of the Hospital Trust, offer a view as to how many residential units could be created, through the conversion of the existing buildings on the site into residential? Is it agreed that the current use of the site would fall within Use Class C2? Are there any restrictions on the re- use of the buildings for purposes within that use class? Would it be possible to speculate, based on likely trip rates what the traffic generation from the site would be, if reused within the same use class and how would that compare with the traffic generated by the scale of residential use that the current allocation would provide? Has Kent County Council as Highway Authority offered any views on the traffic and highway implications of the East End allocations on the wider rural road network?
31. I note that the site area in the neighbourhood plan is significantly larger than the allocation proposed in the local plan, which limits the allocation essentially to the extent what can be classed as previously developed land. Would the

- Parish Council be concerned if the development area was reduced in to line of the buildings consistent with what the draft local plan is proposing?
32. I noted on my site visit, the number of fine mature trees on the site. Can the Borough Council advice whether they are currently covered by a Tree Preservation Order?
33. My examination will need to consider this allocation, in particular, in the context of whether this scale of development in this location really is a sustainable location for this amount of new housing and I am of course conscious of the current residential consent on the site.
34. I would like who is best placed, whether it is the Parish Council, the Borough Council or Savills on behalf of the Benenden Healthcare Society, to elaborate on the discussions that have led to the inclusion, within the Local Plan draft allocation, which has resulted in a commitment which will allow the use, by residents of the hospital shop and café, and the provision of a minibus. Is the reference to provision of 50% of the residential uses, related to the 50% occupation on the south west quadrant only or the combined site? Why could these facilities not be provided to assist the early residents of the development on their land?
35. I would also be pleased if further elaboration can be provided as to what the “active travel link” between the site and Benenden is referring to? What type of route is envisaged, where will it run, who will provide it and by when and is the land to provide the route secured? Could an indicative route be shown?
36. I have noted the strong objections from the Friends of East End to the two allocations and in particular its desire to retain the Garland Wing. Can I ask what The Friend’s view as to what beneficial use could the building be put to, to secure its future use and restoration? Would they consider that a residential conversion would be acceptable in this location and roughly how many units would it deliver?
37. On a related issue I would also like to offer The Friends of East End the opportunity to set out what their vision for this redundant hospital site?
38. Can the Borough Council confirm whether Historic England have been asked to list the Garland Wing and what its response has been? Does it currently have the status of being a non-designated heritage asset, even though consent has been given for its demolition?

Site Specific Policy (SS4)

39. I note that the Neighbourhood Plan is allocating an area of open space to the rear of the houses adjacent to the garage block, whilst the draft Local Plan restricts the allocation to the previously developed land. Is that a deliberate decision or should it be restricted to the currently developed area?

Policy BD8 - Materials and Technology

40. Is there a word missing in a) and what does the Parish Council consider constitutes “sustainable construction”?

Policy BE4 - Shops and Public Houses

41. Does the Parish Council have a view as to how long properties need to be marketed for, before alternative uses can be considered?

Policy BE6- Redevelopment of Redundant buildings

42. Should the title of the policy be “Reuse” rather than “Redevelopment of Redundant Buildings”?
43. Does the Parish Council have a view on the conversion of rural buildings to residential, as supported by the Secretary of State’s policy, in paragraph 79 of the NPPF?

Policy BE7 – Encouraging the Right Future Businesses

44. Can the Parish Council direct me to which are the “designated commercial areas” where infrastructure links are more sustainable?

Planning Contributions

45. I will need to be satisfied that if Policy T1 is looking for financial contributions via Section 106 agreements, these contributions will meet the 3 tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 or is the policy referring to CIL payments, when and if they are introduced and is it envisaging that the Parish Council’s 25% CIL receipts will be used for that purpose?
46. This consideration equally applies to Policy T3 contribution to play facilities and T4 contributions to reducing the impact of pollution by cars.

Referendum Area

47. If, at the end of the examination, I recommend that the neighbourhood plan does proceed to referendum, one of the matters, I need to consider is the area to which referendum will be held. It will, of course, cover all of Benenden Parish as the neighbourhood area, but there are other properties directly affected by the proposed allocations at East End. As I have received representations from Biddenden Parish Council, I would like to extend an invitation to them to identify which properties in their parish that they believe should be allowed to vote in any referendum on the Benenden Neighbourhood Plan and I will consider that request. I would be pleased if Tunbridge Wells Borough Council would forward this note to them. I similarly offer Benenden Parish Council this opportunity to identify any properties beyond the parish boundary, which it feels should be able to take part in a referendum.

Concluding Remarks

48. I am sending this note direct to Benenden Parish Council, as well as Tunbridge Wells Borough Council.
49. You will note that I have also asked for comments from the Friends of East End and Savills on behalf of the Benenden Healthcare Society. I would be pleased

if the Borough Council could forward this document to them upon receipt and ask that their responses to be sent to me, via the Borough Council, who should also copy the Parish Council in on the response.

50. I would request that all parties' response to my questions should be sent to me, by 5 pm on **30th April 2021** and also copied to the other parties.

51. Once I receive these responses, I will decide whether I need to call for a public hearing and who needs to be invited and what matters that I will be asking questions on.

52. I would also request that copies of this note and all the respective responses are placed on the Neighbourhood Plan's and also Tunbridge Wells Borough Council's website.

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Independent Examiner to the Benenden Neighbourhood Plan.

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