

Benenden Neighbourhood Development Plan 2020 - 2036

Further Comments of the Independent Examiner

Prepared by
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31st May 2021

John Slater Planning Ltd

Introductory Comments

1. As you may be aware, I am conducting the examination of the Benenden Neighbourhood Plan.
2. Following my initial consideration of the plan and the considerable volume of documents which accompanied it, I have carried out two visits to the plan area. On 26th March 2021, I issued a document entitled Initial Comments of the Independent Examiner which asked a number of questions of Tunbridge Wells Borough Council, Benenden Parish Council, Savills on behalf of Benenden Healthcare Society and the Friends of East End. I am grateful for all the responses, which I received on 30th April 2021.
3. I have now come to the conclusion that I will need to hold a public hearing to explore a limited number of matters focussed on the two allocation sites at East End.
4. Whilst generally, the presumption is that neighbourhood plan examinations will proceed on the basis of the consideration of written material only, in this case there are matters which have been prompted by my review of the documents, the further submissions and the Regulation 16 representations as well as what I have witnessed on my site visit, which requires me to invite further contributions. Normally this would have led me to call a traditional public hearing which would be held in a local venue, but the situation at the present time, is far from normal.
5. The Secretary of State, last year, issued fresh advice in his Planning Practice Guidance regarding the conduct of neighbourhood planning examinations during the COVID 19 crisis.

“Examinations: The general rule remains that examinations should be conducted by written representations. If an examiner considers that oral representations are necessary, these should not take place in person. *Where feasible, oral representations may still take place using video conferencing or other suitable technologies.”*

6. I did contemplate holding the holding this hearing locally, but the public health situation, in my opinion, is still far from settled, in terms of being able to hold a public session, with an unknown number of attendees, in a COVID safe manner. There is still too much uncertainty around convening such public events. I am not prepared to call for such a session in person. I have therefore concluded that the practice of holding a neighbourhood plan hearing via video conferencing, should still be used for this examination. I note that the Planning Inspectorate is continuing to hold virtual hearings.
7. I am therefore through this note, inviting one representative each, from Tunbridge Wells Borough Council, Benenden Parish Council, the neighbouring

Biddenden Parish Council, Friends of East End, Savills on behalf of Benenden Healthcare Society, the High Weald AONB unit and a representative of the Highway Authority at Kent County Council to join me in a video conference call. The purpose of the video conference call is essentially, for me to lead a discussion on a specific number of key questions. I will set these matters out at the end of this note.

8. The conference call will be held on Friday, 25th June 2021. It will start at 9.30 am and I anticipate that the hearing will be completed on the day, although we will have a break for lunch around 1pm. I have asked for the video conference call to be hosted by Tunbridge Wells Borough Council and Deborah Dixon has agreed to make all the arrangements and to be the person who will liaise with me regarding the hearing's logistics.
9. I have requested that arrangements be made for the proceeding to be streamed live, so that members of the public including those who made representations at the Regulation 16 stage, will be able to follow proceedings online, but as in the case of a public hearing, they will not be able to be part of the discussions. I am also proposing that a copy of the recording of the hearing be placed on the respective websites for later viewings for those who cannot follow the hearing on live stream.
10. A separate invitation will be sent of the invited participants closer to the date of the hearing with the requisite link (s). I have asked that details be included on the Benenden Neighbourhood Plan webpage of the WBC website setting out how members of the public who wish to watch the live stream will be able to view proceedings.
11. The legislation provides that is for the Examiner to decide how the hearing is conducted and who should be invited to participate beyond the qualifying body and the local planning authority. In particular, it is my responsibility to be setting the questions that I wish to be addressed in the hearing and the extent of any follow up questions, and the amount of time for individual responses.
12. The principle to be applied, is that all questioning will be done by myself, except where I feel that by allowing questioning by other parties, will assist the adequate examination of a particular issue. It is important to note that the holding of a neighbourhood plan examination is not like a public inquiry and it will take the form of round table discussion, which I will be lead, rather than cross examination. It will be focussing on only those issues that I am wishing to explore, through my questions , only on the topics that I feel that I need to hear discussed as part of my examination. I must be clear that as a round table discussion, a neighbourhood plan hearing is not an opportunity for any invited party "to be able to present their case", as I will already be having due regard to all the comments made by all the parties who have responded to the Regulation 16 consultation.
13. Each participating party is requested to provide a brief, outline Written Statement in response to the individual questions I have raised, where I have invited their participation. Not all questions will be relevant to every participant. Statements must be no longer than one side of A4 per relevant

question. Participants are requested to use their Statement to outline their position in response to the relevant questions raised, and will still be able to draw on the information set out in their previously submitted representations. These statements must be submitted by email to Deborah.Dixon@Tunbridgewells.gov.uk by 5pm on Tuesday 22nd June 2021. I will then ask the LPA and the QB to publish the statements on their respective websites on Wednesday 23rd June 2021.

Agenda

14. The agenda on the day will generally be as follows:
 - i. **Opening remarks-** by myself as Examiner
 - ii. **Opening statement** by Benenden Parish Council – I would like to offer the opportunity to the Qualifying Body to set out its overall approach to the preparation of the neighbourhood plan.
 - iii. **Discussion based on my individual questions:** These will look in turn at the questions 1 – 6 which I are set out in this note
 - iv. **Examiners Closing Remarks**

Concluding Remarks

15. I am sending this note direct to Benenden Parish Council, as well as Tunbridge Wells Borough Council.
16. I would be grateful if the Borough Council could send the invitation to participate to the relevant persons who represent the organisations who I have invited to attend via this document. In addition, I would also ask that this note to be sent to everyone who submitted representations on the neighbourhood plan at the Regulation 16 stage so they are aware of how the next stage of the examination is proceeding.
17. If there are any matters of clarification or logistics, regarding the hearing, I would request that they be referred to me, via Deborah Dixon at the Borough Council.
18. Finally, I will be grateful, if a copy of this note and any subsequent documents submitted are placed on the appropriate neighbourhood plan websites.

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

Independent Examiner to the Benenden Neighbourhood Development Plan.

31st May 2021

Questions Relating to the East End Allocation Sites

Question 1

Are the proposed allocations on the hospital owned land at East End, well located for this level of new housing and will they deliver sustainable development? Do the two allocations meet the criteria which are set out in paragraph 78 of the NPPF, namely that “housing should be located where it will enhance or maintain the viability of rural communities” and is the subsequent NPPF advice that “where there are groups of smaller settlements, development in one village may support services in a village nearby” relevant to the neighbourhood plan strategy? If the NPPF policy, in para 117, is that objectively assessed housing needs should be delivered in a way that makes as much use as possible of previously developed land, does the development of the two hospital allocation sites “cause harm to designated sites of importance for biodiversity or conflict to an overriding extent with other NPPF policies”?

Participants

Benenden Parish Council

TWBC

Savills

Friends of East End

Question 2

Are the requirements that the social infrastructure needed to mitigate the impact of the development and enhance the sustainability of the location, for example, in terms of requiring a contribution to the provision of a community café/shop, sports facilities, community building and minibus links as well as the provision of an active travel link to Benenden village, as proposed in Policies SSP3 and SSP4, sufficient to meet the reasonable day to day needs of future, as well as existing residents, in this location? Is it appropriate that these facilities should be required, for a residential development of this scale, in this location and is it reasonable that they should be expected to be fully funded by the developer, rather than by a *proportionate* contribution?

Participants

Benenden Parish Council

TWBC

Savills

Friends of East End

Question 3

Is it appropriate that affordable housing should be provided *on site* in this location?

Participants

*Benenden Parish Council
TWBC
Savills*

Question 4

Can I be satisfied that the two allocation sites at East End can accommodate the necessary quantum of proposed development without adversely impacting on the Local Wildlife Site?

Participants

*Benenden Parish Council
TWBC
Savills
Friends of East End*

Question 5

Will the residential development proposed on the two sites, individually or collectively, have an adverse impact on the adjacent AONB and, if it does, specifically in what ways will that harm be manifested, having regard to the existing levels of development, currently on site, or as already permitted?

Participants

*Benenden Parish Council
TWBC
Savills
Friends of East End
High Weald AONB Unit*

Question 6

Will the net increase in the number of homes on the two East End allocation sites, beyond those already committed, have a significant impact on the transport network, either in terms of capacity and congestion or highway safety and if it does, can these be cost-effectively mitigated?
In particular, will the allocation of the two sites via Policies SSP 3 and SSP4 have a severe impact on key junctions in the neighbouring Biddenden Parish specifically at Castletons Oak Crossroads and at Woolpack Corner?

Participants

*Benenden Parish Council
TWBC
Savills
Biddenden Parish Council
Kent County Highways*