

Stage 1

Issue 4 –Other Aspects of Legal Compliance

2. Were adequate opportunities made available for participants to access and make comments on the Local Plan, and other relevant documents, in different locations and different formats –i.e. electronically and in person?

- (i) Up to 20% of Benenden residents have no internet connection or else only limited internet access skills. That 20% consists mainly of older residents who do not drive. This means that, with Covid, up to **20% of the population (mainly those over 60 and living in villages and rural areas) was not consulted.**
- (ii) At the **Pre-submission Local Plan (PSLP) meeting of Full Council on Feb 3, 2021**, several councillors noted that many documents were missing and more than 40 of them were only available on a special file which, at 4pm on Feb 3rd, 12 councillors from across all parties, were unable to access. Paddock Wood documents were only made available late on Feb 2nd 2021.
 - (a) One councillor said, “I cannot endorse something until I have been able to study it.” She said she had been told by officers that some of the documents would not be published till March.
 - (b) One councillor said that Green Belt land was released without news on their assessment. She asked for a pause in proceedings to give councillors time to review new circumstances. Several councillors asked for a pause and questioned the apparent haste of officers.
 - (c) Another councillor said “we have not made allowances for the flood plain, the AONB and the Green Belt. Jenrick says the presumption for sustainable development does not override policies and strategies in the NPPF, especially footnote 7 of paragraph 11 which calls for the protection of the AONB.”
 - (d) Another councillor said, “We must be seen to be making fully informed decisions based on access to all documents.”
 - (e) To this, the Head of Planning replied that “members had had access to the main documents”.
 - (f) The plan was approved, with 15 either abstaining or voting against. 30 voted for.
- (iii) **Consultation was made after site allocation, rendering consultation superfluous.**

The Benenden section of the Local Plan is based on allocations made in the Benenden Neighbourhood Plan (BNP) and these were first published in February 2019 in the so-called ‘Informal Draft Plan’. The allocations in the PSLP in 2021 are very similar, yet in para 5.240 the PSLP states “the BNP proposes to include site allocation policies that follow the approach of the site allocation policies for Benenden in this Local Plan (LP).” In fact, it was the other way round.
- (iv) The BNP Feb 2019 allocations were made before the Sustainability Appraisal so that the SA appears to be arguing in favour of sites already selected.
- (v) Allocations were also made before consultation with major stakeholders. For example, Historic England in its comments on the PSLP, asks for surveys to be carried out *before allocation* but the Benenden part of the plan at least, was produced before any such survey.
- (vi) Still in relation to Benenden, the AONB and Natural England (NE) were treated in the same way as Historic England. In fact, to the best of our belief, NE was not only not **asked to comment on the allocation of Local Wildlife Sites** for building at the

hospital, only following the publication of comments on the Local Plan, was the NE made aware of hospital proposals to dig sites up and move them elsewhere. These proposals are made by the hospital in the name of 'protecting' wildlife sites and the hospital's definition of 'protection' has not been questioned by the Local Plan. NE should have been given the chance to comment in full knowledge of the hospital's, and apparently TWBC's, plans for so-called 'protection' of the hospital's wildlife sites.

3. Were representations adequately taken into account?

- Eight letters from Benenden residents in response to the invitation to comment on the PSLP objected to Clause 8 of AL/BE2 (the Uphill Site). This Clause stated "*The layout, including hard and soft landscaping, to be designed so as not to prejudice the future provision of a suitable vehicular access with appropriate visibility splay(s) to the land located to the north, which may be allocated for development as part of a future Local Plan*". The objection was on the grounds that "*Development of this piece of land will unlock access to the larger piece of land adjacent to it within the AONB (the majority of Site 158)... we feel this would completely change the character of our community*".
- There were 41 objections to the PSLP's Benenden hospital proposals, yet the 8 mentioned above were acknowledged, for Clause 8 was dropped from the next iteration of the plan, and the 41 ignored. And this, although the East End community of 76 rural households is set to be overwhelmed by a proposed new settlement of up to 100 houses at the hospital (50 new build, 24/25 already permitted and 18 replacement buildings).
- The comments invited on the PSLP appear to have been accepted or rejected at random and without explanation. Comments from Savills, speaking for the Benenden Healthcare Society(BHS) for example, state that the BHS refuses to allow its buildings to be used by the public (no use of their café), refuses to set up a shop in its buildings, declines to offer hospital grounds for sports facilities, declines to organise any transport to the village or elsewhere (offering limited financial contributions only) and points out that it could not establish a bike route or footpath to the village because it did not own the land needed to do so. Yet all these proposals, first made in the BNP, repeated in the PSLP, remain, without comment, in the Submission Plan.
- BHS says it intends to 'protect' wildlife sites by digging them and removing the soil for dumping elsewhere at an unspecified place, yet the Submission Plan ignores this damaging detail and continues to talk, as does the hospital, of 'protecting' wildlife sites. How can the public have confidence in this 'protection' if there is no attempt to face up to the hospital's interpretation of that word? TWBC, to the best of our knowledge, has made no attempt to contact Natural England grassland specialists to confer on whether such a proposal is feasible.

6. In what ways does the Plan include policies designed to secure that the development and use of land in the area contributes to the mitigation of, and adaptation to, climate change.

- Policies at least as far as they relate to the parish of Benenden, actively counter the intent of the Submission Plan's strategy on climate change. This intent is to reduce carbon footprints and adapt to predicted climate changes.

- The northern hospital site is, curiously, not scored for climate change in the SA. The southern site is scored as neutral.
- Both sites have large areas of high priority grassland in them. In the case of the Referendum BNP, 50% or more of hospital development land is wildlife site. These sites are among the top 5 species-rich grassland sites in Kent and are listed by Natural England as having National Importance. Such sites are rare because they have been undisturbed for a long period of time. These Benenden sites are pearls of great price yet comments by the Benenden Healthcare Society (BHS) in the PSLP show that the hospital plans to dig them up (thereby ‘protecting’ them) before building, and we also know, from Savill’s June 2021 letter on behalf of BHS to the Independent Examiner (para 1.7), that it considers itself free to drive heavy machinery over wildlife sites during demolition and construction.
- Grassland expert Graham Harvey writes in ‘Plant Life’ Issue 91, Autumn/ Winter 2021 “*Grasslands provide huge benefits to the environment . . . so much so that scientists believe they may be more important even than forests in the fight against climate change.*” *Species-rich grasslands are “capable of removing large amounts of the greenhouse gas carbon dioxide from the atmosphere.”*
- Submission Plan proposals to include the hospital’s wildlife sites in development sites at Benenden hospital are contrary to national policy following **COP 26** and to TWBC’s own climate change policy. **TWBC declared a climate emergency in 2019** and established a cross-party task force “**to look at ways to reduce carbon emissions and to make a positive contribution to combating climate change, including ensuring that forthcoming plans and strategies including the new Local Plan) take account of this.**’ (see *Local Shaping the borough, making all the difference*, Autumn 2019 published by TWBC, page 8.)

There appears to be an element of hypocrisy in the Submission Plan’s approach to climate change.