

NOTE

SEDLESCOMBE NEIGHBOURHOOD PLAN EXAMINATION

1. The purpose of neighbourhood planning is to provide communities with the power to establish their own policies to shape the future development of the area where they live and work. It “...gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”¹ That vision as set out in a draft neighbourhood plan may conflict with the needs and desires of others who wish to seek the development of land for housing and other goals by utilising the planning process to that end.

2. On 2nd February 2017, I was appointed by Rother District Council (“RDC”) to conduct an Examination of the submission version of the Sedlescombe Neighbourhood Development Plan (“the current Plan”). This is the second submission version of the Plan submitted for Examination. In so far as the first version was concerned, various recommendations were made by the Examiner, then appointed to conduct the Examination (Mr McGurk), some of which did not find favour with the Parish Council. The result was that the Parish Council subsequently withdrew the first submission version of the Plan.

3. Thus, the current Plan is the revised draft version of the pre-submission Neighbourhood Plan. Consultation took place on the pre-submission current Plan between July and September 2016 under Regulation 14. The current Plan was submitted to the District Council on 29th September 2016 and consultation took place over an 8-week period between 28th November 2016 and 23rd January 2017.

4. Following the service of the submission version of the current Plan for Examination, it transpired that there were a number of areas of contention which needed to be addressed before the Examination could proceed. To this end a Public Hearing (“the Public Hearing”) was arranged at which these issues

¹ See NPPF, paragraph 183.

could be aired, and Directions were made to facilitate its conduct. I refer to paragraph 9 of the Directions dated 30th May 2017.

5. One of these areas of contention relates to proposed Policy 11 of the current Plan. This seeks the designation of two parcels of land at the edge of Sedlescombe Village as Local Green Spaces in accordance with paragraphs 76 and 77 of the NPPF. These parcels are known as Street Farm and Red Barn Field.² One of the contentious issues canvassed during the Public Hearing was whether it is appropriate to designate the whole of Street Farm, and Red Barn Field, as Local Green Spaces, having regard to the fact that it could be considered to be an “extensive tract of land”.
6. On 19th June 2017, the Public Hearing took place in Bexhill Town Hall. One of the matters discussed in the context of Policy 11 related to the recent grant of planning permission by RDC for the erection of 16 residential dwellings, together with ancillary works, together with the transfer of land, on land at Brede Lane, Sedlescombe, (“the Brede Lane Land”).³ It is to be noted that the land defined for planning purposes as Brede Lane Land is coterminous with the ‘Street Farm’ land falling within draft Policy 11. .
7. The decision notice produced by RDC in respect of the Brede Lane Land was dated on 17th May 2017 (“the Decision Notice”). This provided for the erection of 16 residential dwellings, together with the creation of a new access onto Brede Lane, and provision for car parking, open space and landscaping, and the transfer of land to be used as school playing fields and public open space.
8. This was the second application made in respect of the Brede Lane Land, the first application having been refused by RDC, and subsequently dismissed on appeal by the Inspector. The grounds for its dismissal were that at that stage the then Sedlescombe Neighbourhood Draft Plan was at a sufficiently advanced

² These parcels of land are identified as the land edged hatched green on the first plan annexed to this Note (“Plan 1”), being the submitted Proposals Map Inset A.

³ Annexed to this Note is a second plan (“Plan 2”) which identifies the Brede Lane Land as the land edged red, which in large measure is conterminous with the land identified as Street Farm and hatched green on Plan 1. This plan taken from RDC’s submissions also shows a reduced LGS reflecting the planning permission, which is shown as its alternative proposal on “Plan 3”.

stage, and would be prejudiced on prematurity grounds. This appeal was called- in by the Secretary of State, who agreed with the Inspector's Decision.

9. On 6th June 2017 RDC was notified in a letter from Surrey Hills Solicitors that they had been instructed on behalf of the Sedlescombe Parish Council, and Mr Jonathan Vine-Hall, to challenge the Decision Notice made in respect of the Brede Lane Land by way of an application for judicial review. This letter was acknowledged by Setfords Solicitors, on behalf of RDC, who stated that they would resist the claim in full, and would not be consenting to the proposed order, as requested. It was made clear that if and when an application for judicial review was made, it would be opposed.
10. It is in this contextual framework that the question has been raised whether this Examination of the current Plan should proceed, or should be suspended pending the determination of the judicial review application. During the course of the Public Hearing it was suggested by Mr Homer, for the Parish Council, and Mr Vine-Hall, that the Examination should be put "on hold". Mr Marlow, for RDC, was not in agreement with this proposal.
11. In my judgment, the Examination should proceed, and not await the outcome of the application for judicial review. My reasons are as follows:
 - (1) The issues raised in the proposed application for judicial review of the grant of planning permission over the Brede Lane Land by the Parish Council and Mr Vine-Hall are seen as self-contained and separate from the issues raised in the Policies proposed in the current Plan;
 - (2) The consideration arising in the current Plan is that the Parish Council seeks to designate the whole of Street Farm, including the Brede Lane Land, as a Local Green Space, which would fail if it was found not to meet the tests in paragraph 77 of the NPPF. This is an issue to be determined in the Examination;
 - (3) The Parish Council in the current Plan is seeking to establish policies to shape the future development of the Parish of Sedlescombe. To that end a considerable amount of time and effort has been expended in this endeavour by the residents of Sedlescombe. This has resulted in the

production of a comprehensive draft neighbourhood plan with ten considered Policies.

(4) It would not be in the interests of justice, or to the people of Sedlescombe, to be denied the opportunity to have their Plan fully and properly considered for what could be a lengthy period of time whilst the judicial process unfolds.

12. Accordingly, I have decided to proceed with the Examination of the current Plan. To this end a Site View of some of the sites the subject matter of the Policies has now been arranged, to be held on Monday 4th September 2017.

EDWARD F COUSINS

Associate Member

18th August 2017

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