

Report to	-	Executive Director
Date	-	5 May 2019
Report of the	-	Head of Service – Strategy and Planning
Subject	-	Examiner's Report into the Ticehurst Neighbourhood Plan 2018-2028

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**Recommendation: That: Under the Executive Director's delegated authority, it be decided that the Ticehurst Neighbourhood Plan incorporating the Examiner's modifications, as set out at Appendix 1, proceed to local Referendum, and that the Referendum Area be the Parish.**

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## **Introduction**

1. The Examiner, Mr. John Slater, appointed with the agreement of Ticehurst Parish Council, to consider whether the Parish Council's submitted Neighbourhood Development Plan meets the required 'basic conditions', issued his Report of 5 April 2019. The Report is set out at Appendix 2. The analysis and assessments of the policies of the Ticehurst Neighbourhood Plan (TNP) are contained on pages 10 to 28 of his Report.
2. Attention is drawn to the earlier Cabinet report of 19 December 2018, which summarises the submitted Plan and its background, as well as this Council's own representations.
3. This report focuses on the legal responsibilities of this Council, to consider the Examiner's recommendations and to decide whether the Plan, with the Examiner's modifications, meets the required 'basic conditions', such that it should proceed to referendum.

## **The Examination & Examiners recommendations**

4. The Examiner undertook the Examination by means of a Written Representations meaning that no hearings were held as part of the process. The Examiner produced a Written Report which concluded as follows :-

*The plan will provide a sound basis for dealing with planning applications in the parish in the next few years.*

*To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.*

***I am therefore delighted to recommend to Rother District Council that the Ticehurst Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.'***

5. In terms of the recommended modifications the more noteworthy include:
- That protected viewpoints be shown on relevant maps.
  - The removal of the proposed green corridors between settlements in the parish excepting the one separating Flimwell from Ticehurst.
  - Removing the Local Green Space status from the highway verge at the Flimwell crossroads.
  - Removing all policies requiring documents to be submitted with planning applications as this is the role of the District Council's Local Validation Checklist.
  - Establishing the need to justify the loss of a retail or service facility by reference to a marketing exercise.
  - Deleting restrictions on servicing and restrictions on developments served by minor lanes.
  - Clarifying that the policy "The Spatial Plan" only relates to housing development.
  - Amending the housing policy to state that schemes of 10 units or under will be "encouraged".
  - Removing the policy that seeks to restrict the allocation of affordable housing to those with links to Ticehurst parish.
6. In relation to Policy H2 the Council strongly objected to housing on the Singehurst site following a recently dismissed planning appeal. However the Examiner took the following view:
- "This has probably been the most controversial aspect of this examination with Rother District Council objecting strongly to the allocation of the site at Singehurst and local residents objecting to the proposed allocation at Wardsdown House in Flimwell.....As previously stated, I am satisfied that the Parish Council has approached the site allocation exercise in an objective and straightforward manner. It issued a call for sites and then has assessed the sites against an objective set of criteria, as part of the SEA Environmental Assessment process as set out in the Environmental Report. I am satisfied that plan has justified its choice of sites. I also accord great weight on the fact that neighbourhood planning places the onus on Parish Councils and Neighbourhood Forums, to be able to allocate sites for the new housing, where required by the strategic policies in the Local Plan. The neighbourhood planning system allows the community to reach a different conclusion regarding the choice of sites, to the professional judgements arrived at by the local planning authority. That makes the neighbourhood plan such a powerful tool, as it empowers the local community to decide for itself where and what type of new housing, should be built within their area".*
7. The recommended modifications to the TNP have resulted in the rewording of various policies and supporting text along with some amended mapping
8. In addition, the Examiner has confirmed that the referendum area does not need to be extended beyond the plan area vis-à-vis Ticehurst Parish.

## **Consideration of the Examiner's report and proposed modifications**

9. The Council must now consider each of the Examiner's recommendations. It is not obliged to accept them, but should be aware that the purpose of the examination is to provide independent scrutiny by a duly qualified person. The legislative position<sup>1</sup> is that the Local Planning Authority can only make modifications post-examination if it considers them necessary to meet the 'basic conditions', be compatible with Convention rights, accord with relevant Regulations or to correct errors. Also, in this event, further consultation and potentially a further examination would be required.
10. For reference, the 'basic conditions' relate to the need to:
  - have regard to national policies and advice
  - contribute to sustainable development
  - be in general conformity with the development plan's strategic policies
  - not breach or otherwise be incompatible with EU obligations
11. Overall, it is believed that the Examiner has undertaken a fair and robust examination of the submitted Neighbourhood Plan, properly considering all duly-made representations.
12. It is noted that the Examiner has taken the view that, as modified, the TNP would meet basic conditions, particularly general conformity with the Core Strategy.

## **Parish Council Response and Referendum version of the Neighbourhood Plan**

13. Ticehurst Parish Council has advised that it has agreed to accept all of the modifications recommended by the Independent Examiner. It has also worked closely with officers to make the necessary consequential amendments to the Neighbourhood Plan for it to progress to Referendum.
14. A full draft of the Ticehurst Neighbourhood Plan, incorporating all of the Examiner's modifications, consequential changes, and updating, as agreed with the Parish Council, has been collated and is contained in Appendix 1. A separate Schedule of changes has also been prepared, set out at Appendix 3.

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<sup>1</sup> Paragraph 12(6) of the Schedule 4B of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, and the Planning and Compulsory Purchase Act 2004 (as amended).

## **Conclusion, Implications and Referendum**

15. In light of representations on the submitted TNP Development Plan, the Examiner, has carefully considered whether it meets the necessary 'basic conditions' and concluded that it does, subject to a number of modifications. Planning Officers accept his conclusions, as does the Parish Council; hence, it is recommended to endorse the Examiner's recommendations (Appendix 2), including the proposed modifications as agreed by RDC & TPC (Appendix 3) and put the modified version of the Neighbourhood Plan, (Appendix 1), forward for Referendum to the residents of Ticehurst Parish.
16. If there is a majority support for the Neighbourhood Plan at Referendum, this Council will be obliged (subject to certain, limited exceptions) to formally make it part of statutory development plan. At that point, the 'development boundaries' for Ticehurst, Flimwell and Stonegate their development allocations, as well as the Local Green Space designations, will become the primary policy references for the purpose of determining most planning applications in the Parish.
17. Attention is drawn to the fact that, a consequence of the Neighbourhood Plan being made, the development boundaries for Ticehurst, Flimwell and Stonegate together with the associated development allocations, as defined in the Rother District Local Plan 2006, will be superseded.
18. The other notable implication of making the Neighbourhood Plan is that Parish Council will then receive 25%, rather than the current 15%, of Community Infrastructure Levy receipts from future developments in the Parish.
19. As regards the local Referendum, it is envisaged that it will be held around late June and assuming a favourable majority vote it will progress to Cabinet and Full Council in early July.

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