

Rogate and Rake Neighbourhood Development Plan 2020 -2033

Initial Comments of the Independent Examiner

Prepared by

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12th January 2021

Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Rogate and Rake Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the parish including Rogate and Rake as well as the other smaller settlements and the surrounding countryside on Saturday 9th January 2021.
2. My preliminary view is that I should be able to deal with the examination of this Plan by the consideration of the written material only. I do have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but that may only be necessary, if there are issues that emerge from the responses to this note, which I feel warrant further exploration. If I do have to call a hearing, which is unlikely to be required, it would have to be via a video conference call, in the current COVID 10 climate.
3. Set out in the following paragraphs are a number of matters that I wish to receive either clarification or further comments from the Parish Council or in some cases from the South Downs National Park Authority (SDNPA). Such requests are quite normal during the examination process and the replies will help me prepare my report and come to my conclusions.

Regulation 16 Comments

4. I would firstly like to offer the Parish Council the opportunity to comment on the representations that were submitted as part of the Regulation 16 consultation. I am not expecting a response in respect of every point, just those that the Parish Council feels it wishes to respond to.

Strategic Policies

5. Can the SDNPA confirm that it is only the Strategic Development policies in the local plan that are for the purpose of the basic condition, the strategic policies that the neighbourhood plan has to be in general conformity with?
The Strategic and Core Policies of the Local Plan are considered to be strategic for the purposes of the Basic Conditions for Neighbourhood Development Plans.

Policy NE1 – Natural Environment

6. Does the SDNPA have a view as to whether the requirements of this policy are merely duplicating policies in the South Down Local Plan?
Policy NE1 is well aligned with the SDLP and whilst the policy does cover many of the themes of the SDLP (e.g. conserve and enhance landscape, ecosystem services, tranquillity) it does also importantly provide locally distinctive criteria (e.g. identifying characterising views) and locally specific requirements noted in the Habitats Regulations Assessment for the NDP (e.g. project-specific HRA within 5km of the Wealden Heath Phase II SPA).

7. Can the Parish Council confirm whether the 19 identified views, are the characterising views in the Parish, as seems to be implied by Policy BE1, or if there are other possible views which are not identified, how would an applicant know whether a particular view was protected by this policy?

RPC response

The 20 viewpoints are those referred to in Policies NE1 and BE1 and were defined after a public consultation exercise. It is expected that any development that can be seen in, or impacts on, one or more of the views. The wording of Policies NE1 and BE1 needs to be revised to make this clearer.

8. The list sets 19 views, but the map shows a View 20. Is the list or the map incorrect?

RPC response

The list is incorrect and will be revised - Viewpoint 20 Terwick Common to A272 (looking East)

Policy H1 – Settlement Boundary

9. Could the Parish Council advise me what criteria it used to define the settlement boundary, particularly where the boundary passes through people's gardens

RPC response

The changes to the Rogate Settlement Boundary were initially proposed by SDNPA planners and further changes were subsequently made after public consultation. It is understood the objective was to more closely follow the buildings rather than the plot boundaries.

SDNPA comments

The SDNPA encouraged NDP groups to refer to the [Settlement Boundary Review Methodology](#) used in the preparation of the South Downs Local Plan. This methodology excludes rear and side gardens from the settlement boundary where they are more than 10m from the elevation of the house (with some exceptions set out in the methodology).

Policy H6 - Site Allocations

10. I note that some of the wording of the two allocation policies are actually site description and justification and I may recommend moving that to the supporting text.
11. I foresee that there is a major issue with the allocation of land at The Flying Bull at Rake, which includes land outside the designated plan area. It is not possible for a neighbourhood plan to be advancing a policy for land outside its jurisdiction, even if Liss Parish Council has no objection. If the allocation site were to be restricted to land within the parish boundary, then that would reduce the amount of development the site could accommodate. Does the Parish Council have a view on this and perhaps take up the suggestion that the site allocation be just shown as a red line? Does the SDNPA have a view as to

whether the site could come forward as a rural exception site and what would be the implications for that in terms of the housing figures for the Parish?

RPC response

It is now recognised there is a distinction between a NDP and a planning application/permission. Whereas it is not unusual in Rake for planning applications to relate to land in both Liss and Rogate parishes and consequently in both East Hants DC and Chichester DC and Hampshire CC and West Sussex CC, and recognising that the SDNPA is the Local Planning Authority across both parishes, for the purposes of the R&RNDP, the policies can only cover the designated area.

Consequently it is agreed to only shown the site contained within the NDP area and by just a red line. However any reasonable rear garden would still have to be over the border when a planning application is submitted.

SDNPA response

If the site were to be removed from the NDP it could come forward as a Rural Exception Site, for 100% affordable housing in line with Policy SD29 of the SDLP. However, it is our understanding this is unlikely to happen as the site owner (the Pub) is seeking a return to support the ongoing running of the pub. Policy SD26 of the SDLP sets approximate housing provision figures for settlements across the National Park. The housing provision of 11 new homes is identified for Rogate village and is considered to be met by the allocation of the Renault Garage site in Rogate. A Rural Exception Site development at Rake would be considered windfall as would any housing delivery on an unallocated site.

Policy CH1- Community Facilities

12. Again, there is an issue in that the policy is seeking to protect facilities which lie outside the neighbourhood area – namely Rake Village Hall and its associated facilities?

RPC response

Community facilities in Rake have been included as they were not sufficiently included in the Liss NDP. Perhaps they should be moved to the supporting text.

13. On what basis is the garden centre, considered to be a community facility and does the Parish Council support the garden centre's expansion into adjoining land, as is implied in the policy? Does the SDNPA have a view as to whether the café is an ancillary use to the primary retail use as a garden centre or is it a separate planning unit?

RPC response

Subject to compliance with the other objectives development of the garden centre would be acceptable.

SDNPA response

Planning permission SDNP/12/00902/FUL conditions the café as ancillary to the garden centre so it would not be considered a separate planning unit.

14. To what extent does Fyning Recreation Ground perform as a community facility as opposed to being used as an open space?

RPC response

Fyning Rec used to be a cricket ground – hence the circular area but was superseded by the Recreation Ground in Rogate village. However, there are still community activities in the area and there is a picnic table. There are plans to make more use of the area.

15. Is there a contradiction between Terwick Woodland's inclusion in this policy where the intention would support its enhancement against its inclusion as a local green space, where it would be protected from development?

RPC response

Having reviewed the conveyance and contract when RPC gained ownership there are covenants in place that secure the area for recreation and not development. However we wished it to have the same designation as the other RPC-owned land.

Policy CH3- Public Open Space and Local Green Spaces

16. I would request that a detailed plan be produced for each of the open spaces as, at the scale shown in the document, it is not clear as to the actual boundaries and the extent of the open space. Can I also be provided the site area of each open space as I need to take a view as to whether any of them constitute extensive tracts of land?

RPC response

Detailed maps have been prepared along with areas

17. One of the NPPF's criteria for LGS designation is that each open space is "in reasonably close proximity to the community it serves". I also need to consider whether and in what way are all the sites "demonstrably special to the local community" or whether they serve a wider area and therefore are not local in character. I am confident that some of the smaller sites close to the villages will meet the criteria but I remain unconvinced that the larger sites, such as Chapel Common as a whole, do not meet the strict criteria.

18. I am unclear from the wording of the policy whether "restricted recreational uses such as golf courses" are supported or opposed by the policy as the NPPF policy, where in paragraph 100, it states that policies for managing development within an LGS should be consistent with those in the Green Belt, where outdoor recreational uses such as golf courses would generally be regarded as appropriate development.

RPC response

Chapel Common and Weavers Down are in private ownership and viewed to be at risk of development. This is particularly true of Weavers Down where two previous applications for a golf course have been withdrawn after considerable local opposition. There are already two large golf courses just beyond the parish boundary to the northeast and they restrict the use of the land to club members. Our understanding of the NPPF is that it does not provide automatic approval of a golf course in a Green Belt and we would argue the local circumstances are important enough to exclude that form of recreational use.

19. If I were to conclude that some of these spaces do not meet the strict criteria for LGS status, they will still be protected through their inclusion within the National Park and particularly policy SD9 of the South Down Local Plan.

Concluding Remarks

20. I am sending this note direct to Rogate Parish Council, as well as SDNPA. I would request that both parties' responses to my questions should be sent to me by 5 pm on **28th January 2021**. If either party needs extra time to respond please let me know, but I wish to maintain the momentum on this examination.

21. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan's and also the SDNPA's websites

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Independent Examiner to the Rogate and Rake Neighbourhood Plan.

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