

Rogate and Rake Neighbourhood Development Plan 2020- 2033

Submission Version

A Report to South Downs National Park Authority on the Examination
of the Rogate and Rake Neighbourhood Development Plan

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Executive Summary

My examination has concluded that the Rogate and Rake Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Amending the requirements of the policy relating to “characterising views” to only those proposals which are adversely impact on those views.
- Cross referencing the design policy to cross reference the local plan policy dealing with dark night skies.
- Removing the descriptive material from the allocation policy.
- Removing from the allocation of the land which falls to the rear of the Flying Bull site, the proposed rear gardens located in the adjacent parish and consequently, recommending the removal of the illustrative material to become a redline allocation for two dwellings.
- Adding to the rural economy policy, development that can demonstrate an essential need for a countryside location.
- Removing from the list of community facilities those which fall within Liss parish and also removing Rake Garden Centre and Café.
- Removing the requirement for community facilities to be lost to only those where there is a commensurate facility in the close locality.
- Clarifying that any enabling development to support the retention of a community facility, should be *appropriate* development
- Removing Chapel Common, Weaver Down, Rake Hanger and Durford Heath from the list of proposed local green space but adding to the list, Rake Recreation Ground and Fynings Recreation Ground.

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted South Downs Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken under the supervision of Rogate Parish Council. A Steering Group was appointed to undertake the plan's preparations on behalf of the Parish Council.
3. This report is the outcome of my examination of the Submission Version of the Rogate and Rake Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be "made" by the South Downs National Park Authority (SDNPA).
4. It will be appreciated that in the light of the COVID 19 crisis, a referendum cannot be held until at least May 2021. However, upon SDNPA issuing of the Decision Statement, under Regulation 18 of the Neighbourhood Planning Regulations, indicating how it intends to respond to my recommendations, the plan as modified, can be accorded *significant weight* in development management decisions, until such time as a referendum is held.

The Examiner's Role

5. I was appointed by the SDNPA in December 2020, with the agreement of Rogate Parish Council to conduct this examination.
6. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 42 years' experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Rogate Parish Council and the SDNPA and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
7. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum, if modified.
 - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements
8. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Rogate and Rake Neighbourhood Area.
 9. In examining the Plan, the Independent Examiner is expected to address the following questions
 - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body?
 10. I am able to confirm that the Plan only relates to the development and use of land, covering the plan area initially designated by SDNPA, for the Rogate and Rake Neighbourhood Plan, on 14th March 2013, but which was amended by the removal of a small area of land, north of Nyewood, which had been transferred to Harting Parish approved by SDNPA on 1st October 2020.
 11. I can also confirm that it does specify the period over which the plan has effect, namely the period from 2020 up to 2033.
 12. I can confirm that the plan does not contain policies dealing with any “excluded development”.
 13. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation. At Rake, the plan did extend a residential allocation and proposed policies to protect community facilities that fall within the Liss Neighbourhood Area and which are covered by the Liss Neighbourhood Plan. I have had to recommend that these policies and the allocation be amended to remove reference to areas outside the Rogate and Rake Neighbourhood Area.
 14. I am satisfied that Rogate Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

The Examination Process

15. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public

hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

16. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
17. Firstly, I am satisfied that I can properly examine the plan without the need for a hearing.
18. I carried out an unaccompanied visit to Rogate Parish on the afternoon of 9th January 2021. I started in Rogate and then moved through Rake and also drove through a number of the smaller settlements including Hillbrow and Terwick Common. I also visited most of the proposed Local Green Spaces (LGSs). This was very much a re-familiarisation process as I am very familiar with the area having lived in Petersfield from 1997 until 2015 and I had walked many of the footpaths in the area, often starting and finishing from Fynings Recreation Ground and have also attended functions at Rogate Village Hall.
19. Following my site visits, I prepared a document seeking clarification on a number of matters, which I sent to both the Parish Council and SDNPA, entitled Initial Comments of the Independent Examiner, dated 12th January 2021. I received a response from both the SDNPA and the Parish Council on 5th February 2021. These responses have been placed on the respective websites.

The Consultation Process

20. The neighbourhood plan making process began in 2013 under a Steering Committee made up of local councillors and residents. Early work on this plan involved a questionnaire distributed across the parish, which produced 243 responses and is described as “a key component of the plan’s writing.”
21. The preparatory work was also supplemented by an exercise led by independent consultants, Studio LK. The brief was to undertake a collaborative design process to establish “community capital”, to identify stakeholders and create an appropriate evidence base for the final plan.
22. The work of the Steering Committee was publicised through the parish via articles in the Rogate and Terwick News, via a dedicated website and through posters and reports to the Parish Council meetings. There were a number of public meetings held particularly during the early stages of the plan making.
23. This led to the preparation of the first Pre-Submission Consultation Version of the draft plan, published in October 2015. That version of the plan was not proposing the allocation of any sites and it subsequently transpired that the SDNPA had established that there was a need for Rogate to make provision for approximately 11 dwellings in the parish. This was a major event in the life of the plan.
24. Work on the plan at that point was halted, with the Parish Council deciding to take a more direct role in the production of the plan and it held discussions with SDNPA during both 2016 and 2017. It undertook consultations on possible sites and in 2016, one of the possible sites, 1 - 4 Parsonage was the subject of public consultation and drew strong objections and this site was subsequently dropped. This activity led to the preparation of a second version of the Pre-Submission

version of the plan which was a more focused document which was presented to further public meetings.

25. This version of the plan was published for its Regulation 14 consultation, running from 20th June 2017 to 18th August 2017. This list elicited a total of 21 statutory consultee responses and five responses from members of the public. These are set out in the Appendix 10 of the Consultation Statement along with a commentary on how the plan was proposed to be amended in the light of the responses.
26. I am satisfied that the Parish Council has actively sought the views of local residents and other stakeholders and their input has helped shape the plan although it has been a drawn-out process, taking nearly 8 years.

Regulation 16 Consultation

27. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over an 8-week period, between 19th October 2020 and 14th December 2020. This consultation was organised by SDNPA, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
28. In total, 13 responses were received, from Natural England, Historic England, South East Water, Southern Water, West Sussex County Council, Chichester District Council, Highways England, Environment Agency, Liss Parish Council, South Downs National Park Authority, and from 3 local residents.
29. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

30. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
31. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
 - Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
 - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

Compliance with the Development Plan

28. For the purpose of this neighbourhood plan, the overarching strategic policy context is provided by the South Downs Local Plan, which was adopted in July 2019. This document contains the strategic policies of the development plan, and which is the benchmark for my consideration of one of the above basic conditions. The development plan also includes the West Sussex and South Downs Waste Local Plan 2014 and the West Sussex and South Downs Joint Minerals Local Plan 2018. However, these two plans deal with what are county matters, which are defined as “excluded development” and are beyond the scope of what a neighbourhood plan can address.
29. There are number of strategic policies that set the context for development within the plan area. In particular Policy SD5 dealing with design, refers to a need to adopt a landscape - led approach. Policy SD6 refers to safeguarding views and Policy SD8 reflects the importance of dark night skies and Policy SD9 protects sites of biodiversity and geodiversity.
30. The principle of development taking place within settlements, provided the scale and nature of the development is appropriate to the character and function of the settlement in its landscape setting, makes best use of previously developed land within settlements and makes efficient and effective use of land is set out in Policy SD25 and this is taken on further in Policy SD26, where Rogate is identified as such a settlement which is attributed with a housing provision of approximately 11 dwellings, which will contribute to an overall housing provision for the National Park of 4,750 for the period 2014 to 2033. That figure of 11 is in addition to planning permissions granted prior to 2015 and windfall sites. The policy does accept that parishes can deliver higher numbers if they are to meet local housing needs and in general conformity with other planning policies.
31. Policy SD 45 is a strategic policy which seeks to protect and enhance the Green Infrastructure of the National Park which is backed up by a Development Management Policy SD 46 which covers the protection of open spaces.
32. My overall conclusion is that the neighbourhood plan, apart from where I have noted in the commentary on individual policies, is in general conformity with these strategic policies in the South Downs Local Plan.

Compliance with European and Human Rights Legislation

33. The South Downs National Park Authority issued an early Screening Opinion for Strategic Environmental Assessment, which concluded that a full assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would be required. A Scoping Report was issued in June 2019 and a Sustainability Appraisal incorporating a Strategic Environmental Assessment was prepared by AECOM, dated 18th February 2020. This looked at the implications of the range

of possible housing numbers, the scope for development on six possible sites, including an appraisal of the key environmental constraints on each of the sites and evaluated the extent to which the plan as a whole would have positive and negative effects on the plan area

34. The National Park Authority, as competent authority, concluded that the plan could have adverse effects upon the nearby European protected sites, namely the East Hampshire Hangers SAC, Rook Clift SAC and the Wealden Heath phase 2 SPA. An Appropriate Assessment was prepared by AECOM dated 9th October 2019 which concluded that the plan will not have any adverse effects on any protected European sites as adequate safeguards existed within the neighbourhood plan and the Local Plan.
35. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

36. I must firstly commend the Parish Council and the Steering Group on the quality and the succinctness of the submission documents. The plan is well set out and is an easy read. As a document I find that it is fit for purpose.
37. The plan in a number of policies seeks to designate particular areas for protection, whether it be as local green space, characterising views, or community facilities to be protected. This is an important role, that allows neighbourhood plans to reflect what is important to the local community in terms of their environment. I am satisfied that the majority of individual designations are appropriate and have been justified. I have explained in the cases, where I have recommended the deletion of proposed designations why I do not consider that the proposals are in line with Secretary of State policy, and advice and insufficient justification is given to depart from them, and hence raise issues in terms of compliance with the basic conditions.
38. The plan has also taken the opportunity to allocate sites for housing that the Local Plan is expecting to be delivered to meet local housing need. Whilst the figure in Policy SD 26 is for approximately 11 dwellings for the period 2014-2033, a Housing Needs Assessment has indicated a need which is over 3 times that level. The plan actually allocates two sites which should deliver 15 units – which is midway within the range of new homes that the Parish Council has been advised by the National Park Authority would be appropriate to make provision for. Unfortunately, the Rake allocation adjacent to The Flying Bull, requires land lying in the adjacent parish and outside the plan area. Accordingly, I have had to propose a reduction of that allocation by 2 units, although there is nothing to prevent a planning application being submitted for 4 units, as the boundary constraints would not be relevant to a planning application.
39. It is refreshing to be able to examine a plan where I have had to make so few recommendations for changes to individual policies to ensure compliance with the basic conditions and I have made no recommendations that any policy be deleted.

40. The plan will sit well in terms of general conformity with the strategic policies in the South Downs Local Plan and I have not required any changes due to a conflict with strategic policy although I have proposed some cross referencing, so the two policies will sit comfortably together.
41. The plan recognises the importance of and responsibility for controlling development in a national park, specifically recognising the parish's high landscape quality and its many sites of nature conservation interest, yet it still takes a positive approach to addressing local housing need and supporting local economic activity, as well as seeking to protect and sustain local community services.
42. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the supporting text. These changes are likely as a result of my recommendations, in order that the plan will still read as a coherent planning document.
43. Following the publication of this report, I would urge the Parish Council and the South Downs planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. There will also need to be editorial matters to resolve such as policy numbering as a consequence of my recommended changes. It will also be an opportunity to take on board some of the textual changes to the supporting text where issues may have changed since the preparation of this version of the plan which the SDNPA have raised in its Regulation 16 submission. These are not, in my opinion, basic conditions issues.

The Neighbourhood Development Plan Policies

Policy NE1: To conserve, protect and enhance the natural environment

44. This policy covers much of the same grounds as the South Downs Local Plan, such as the conservation and enhancement of the landscape, ecosystems and tranquillity. It does however introduce some locally specific measures, such as referencing the characterising views. That is an important aspect, having regard to the Parish's topography which allows long distance views. However, there will be some development which will take place within the parish which will not affect any of the identified views and it will be unnecessary for an applicant to have to conserve or enhance these characterising views. I can clarify the policies' aspirations, by adding a caveat in that part of the policy, by restricting that requirement to developments which adversely affect these views either by being seen from that viewpoint or impacting on the view.
45. I have no concerns regarding the plan's choice of the views, which have been chosen as a result of public consultation. The list only defines 19 views whilst the map shows 20 views. I understand that this was a drafting omission and the list

should include View 20 – Terwick Common to the A272 (looking east). I will recommend that the view be added to the list.

Recommendations

In the first sentence, after “natural environment and” insert “must not adversely affect”

Insert in the list of characterising views “20. Terwick Common to the A272 (looking east).”

Policy BE1: Locally Distinctive Design within the Parish

46. I consider that it is important that the requirements in this policy which refer to dark night skies should not undermine the more detailed guidance as set out in Policy SD8 of the South Downs Local Plan.

47. The SDNPA has usefully suggested an improved wording of the criterion dealing with boundary treatment to assist decision making, which I will accept.

48. I will again qualify the requirement to take account of the local characterising views only where the development affects these views.

Recommendations

In b) replace “policies” with “policy as set out in Policy SD8 of the South Down Local Plan”

In c) iii) replace the text after “boundaries” with “is appropriate for its location and respects the village or hamlet setting”

In c) v) at the end of the sentence, insert “which are affected by the proposed development”

Policy BE2: Conservation Area

49. I have no concerns regarding this policy.

Policy H1: Settlement Boundary

50. The neighbourhood plan has reviewed Rogate Village’s settlement boundary. I understand that the review has used the South Down’s Settlement Boundary Review Methodology and I consider that this policy meets basic conditions.

Policy H2: Residential Development in the Open Countryside

51. I have no concerns regarding a policy which is consistent with the thrust of national and local plan policy, but also which reflects the choices made by the community, in terms of site allocation. This ability to allocate sites is a key role in the neighbourhood plans can play, allowing residents to determine the location of the development which the parish is required to accommodate. I consider that it meets the basic conditions.

Policy H3: Conversion of Existing Residential Properties

52. I commend this policy as a means of increasing the supply of small housing units in the National Park, by allowing conversions which are making more intensive

use of existing larger residential buildings, subject to sensible safeguards. This locally distinct policy is in line with the aspiration set out in paragraph 79d) of the NPPF. I am satisfied that it meets the basic conditions and no modifications are required.

Policy H4: Replacement Dwellings, Extensions and Annexes

53. I note that this policy is less prescriptive than Local Plan Policy SD 30 – Replacement Dwellings which seeks to set a limit on the enlargement of replacement dwellings to approximately 30%. This policy refers to the acceptability if “proposals being appropriate for the size of the plot” and “extensions should of a scale significantly less than the main building” or a replacement building should equally be not significantly larger than the existing it is replacing.
54. I consider that this is an entirely appropriate local response, rather than relying upon an arbitrary percentage figure which reflects the variety of sizes of houses and plots sizes found throughout the plan area, yet does not depart significantly from the local plan’s approach. I consider the policy as submitted meets basic conditions.

Policy H5: Local Housing Needs

55. The South Downs Local Plan Policy SD 26 sets down an approximate provision of 11 dwellings which need to be allocated within Rogate, to be consistent with the housing requirements set out as strategic local plan policy. That policy is aimed at setting the figure to the settlement of Rogate, rather than the parish. The plan as submitted proposes sites which will accommodate up to 15 units to meet local housing needs.
56. My recommendations in respect of the Flying Bull site could affect the number that the plan may be making allocations for. However, the redevelopment of the Renault Garage and adjacent property will, in isolation, allow the Local Plan provision to be met. National and local plan policy is that within national parks any new housing which is to be allocated, should be aiming to meet local housing need.
57. The first sentence of Policy H5 is not actually a statement of planning policy, but reads as the justification for the policy i.e., to make the provisions of smaller homes and the fact that the plan is allocating sites. This policy is directed to setting out the housing mix of the allocation sites and I will make that explicit in the policy. Beyond that matter of clarification, I consider the policy meets the basic conditions.

Recommendations

***Delete the first sentence of the policy and move to the supporting text.
At the start of the second sentence, replace “These developments” with
“Development on the allocation sites set out in Policy 6”***

Policy H6: Allocation of Sites Suitable for Development

a) Renault Garage and Bungalow, south of the A272, Rogate.

58. I am satisfied that the Parish Council has adopted an objective site selection process and I consider that the choice of this predominantly brownfield site is situated in a sustainable location, within walking distance of the village centre and its amenities, such as the primary school, is an entirely appropriate location.
59. Much of the policy reads as description of the site and its location. This would be more appropriately located in the supporting text as it is not a statement of policy, setting out how the allocation site is to be developed.
60. I will propose revisions to the policy to remove the descriptive elements.

Recommendations

Replace the policy with

“The two sites shown in the indicative layout in Figure 4.4, are allocated for a residential development for approximately 11 units, preferably developed comprehensively, or alternatively the two sites could be developed separately, subject to compliance with all relevant policies set out in this plan or the South Downs Local Plan. The inclusion of 2 workshop units within the development will be supported in principle.”

Move the textual information set out in i) to vii) to the supporting text

b) Land North of B2070, London Road, West of Flying Bull PH, Rake

61. I have identified a fundamental issue with this allocation which affects the legal requirements relating to this neighbourhood plan. It is clear that the illustrative proposals which seek to demonstrate how the four houses would be delivered on this site, requires the rear gardens of the new houses to be situated in what is currently the adjacent field, which falls across the parish and indeed Hampshire / West Sussex boundary, within the parish of Liss and lies outside the designated plan area. It is a legal requirement that the neighbourhood plan can only make policy for land within the designated plan area and the neighbourhood plan or the Parish Council has no jurisdiction on land beyond the parish boundary.
62. The amount of the land which falls within Rogate parish is not large enough to accommodate the four units and their rear gardens as shown. I have raised this issue with the Parish Council and the National Park Authority in my Initial Comments document. Both parties now appreciate that there is a distinction between a planning application that can cross administrative boundaries and what land a development plan policy can allocate.
63. The response from the Parish Council is to seek to remove that part of the allocation which falls outside the parish, and show that part of the site which falls within Rogate parish as a redline allocation and the illustrative material be removed. That will be an appropriate response to what is essentially, a technical policy issue. I will make it clear in my recommendations that the supporting text should be amended to make it clear that whilst the allocation within the plan areas is two dwellings, if a planning application were to be submitted which extended the allocation site into the land to the rear, then four units could be achieved. However, the site within the red line, which falls solely within the plan area, is

constrained so that the maximum level of development will be two units. This would, for example, allow the siting of a pair of semidetached houses in the centre of the site with gardens to either side.

64. The National Park Authority in its response also suggested that the site could come forward as a rural exception site, without the need for the allocation, but that would have to be 100% affordable housing in line with Policy SD 29. However, the SDNPA understands that would not allow the site owners to realise a sufficient return to support the ongoing retention of the public house as a community facility.
65. My recommendations will ensure that the plan responds to the community's choice of this as a housing site but it does so in a way that restricts the extent of the allocation, to just the land within the plan area. Such a proposal still enables the neighbourhood plan to be shown to be allocating land for more housing than is required by Local Plan Policy SD 26. I acknowledge that the SD26 figure relates to a named settlement rather than a parish, but I nevertheless feel that this location, which is within a settlement which boasts a number of local services, is within the spirit of the policy and would fall within the scope of general conformity with this policy and would certainly not undermine it.

Recommendations

That Figure 4.5 be replaced by a red line, ordnance survey plan showing the extent of the shown site which lies within Rogate Parish

Replace the policy with:

“The site outlined in red in Figure 4.4, is allocated for a residential development comprising two dwellings, subject to compliance with all relevant policies set out in this plan or the South Downs Local Plan. The proposals will be expected to be informed by evidence as to the effect of the development on the existing trees on the site and incorporate measures to mitigate any adverse impact, should provide a landscaping scheme which will include soft landscaping along the site frontage and also be subject to an archaeological assessment. The proposals should include, via a planning obligation, the provision of a footpath along the western boundary of the site to connect London Road to the Village Hall grounds to the rear.”

Insert a paragraph into the supporting text. “If the site area were to be enlarged by the inclusion of land to the rear, which is outside the neighbourhood plan area, to enable rear gardens to be provided, then the allocation site could accommodate four houses.”

Policy EW1: Supporting the Rural Economy

66. I am treating the scope of this policy, as the neighbourhood plan policy which is intended to cover non-residential development (residential development is covered by Policies H2 and H3). The equivalent local plan policy is Policy SD 25, which also would support development which can demonstrate a need for a countryside location. I will add that criteria to this policy, as at the present time, it would not allow, for example, community infrastructure projects which can only be located within the countryside areas.

Recommendation

Add “d) development that can demonstrate an essential need for a countryside location”

Policy T1: Encouraging Sustainable Travel

67. This policy is focused on harnessing the potential of the rights-of-way network as a means to enhance sustainable forms of transport across the parish. Somewhat bizarrely, the policy also includes the statement that “planning permission will not be granted for development that would have an impact on international nature conservation designations”. This element of the policy does not contribute to the policy’s aspiration of encouraging sustainable travel and in any event its intentions are already dealt with comprehensively by Policy SD9 of the South Downs Local Plan.

Recommendation

In the second paragraph delete “on international nature conservation designations”

Policy T2: Safety

68. I have no comments to make on this policy.

Policy T3: Parking

69. Again, I have no comments to make on this policy.

Policy E1: Renewable Energy

70. Whilst I welcome the support offered by the plan for small renewable energy projects, I consider that it will be helpful for the policy to cross reference to the safeguards which are set out in Policy SD 51 of the South Downs Local Plan, which include measures to resist the loss of Grade 1 - 3A agricultural land.

Recommendation

At the end of the first sentence add “and comply with the requirements of Policy SD51 of the South Downs Local Plan”

Policy CH1: Community Facilities

71. As with the case of the housing allocation in Rake in Policy H6b), it is not possible that this policy can protect community facilities which are situated within the adjacent parish. I will therefore be removing reference in the policy to specifically protect the Rake Village Hall and its tennis courts, community orchard and children’s play area, which, whilst clearly serving the Rake community, nevertheless are situated outside the plan area.

72. I questioned in my Initial Comments document, the extent to which the garden centre and its onsite café could be classed as a community facility. The Parish Council in this response did not offer any justification.

73. The definition of community facilities/community infrastructure as set out in the South Downs Local Plan’s Glossary, defines them as “services and facilities used by residents, such as health and well-being services, sport and leisure facility, cultural and religious institutions, pubs and local shops, education and youth facilities and open space.” I would maintain this large garden centre, which serves

a catchment wider than the Rogate parish, would not be recognised as performing a community service, in the same way as a local village shop and post office would. I note that the reason quoted in the supporting text is that the garden centre has a thriving café. However, I consider that this is very much an ancillary use to the primary use of the site as a retail garden centre and indeed the SDNPA advised me in its response to my Initial Comments, that there is a condition preventing it becoming a separate planning unit.

74. Accordingly, it would not be possible for the garden centre café to be protected as a standalone facility, and I am not satisfied that the garden centre and its café meets the definition of community facility. I will therefore be recommending that it be removed from the policy.

Recommendations

Remove “Just outside parish, Rake Village Hall including tennis court, Community Orchard and children’s play area”

Remove “Garden centre and café”

Policy CH2: Development of Community Facilities

75. This matter is already well covered by Policy SD 43: New and Existing Community Facilities of the South Downs Local Plan, which includes criteria for the proposals to submit evidence of the marketing of, or the need to demonstrate of lack of need for a community facility, in order to justify its loss.

76. The neighbourhood plan introduces an added local dimension to the policy, through offering the possibility of a cross subsidy from enabling development to support the retention of the local facility. I am concerned that as drafted, such a policy could have unwelcome and unforeseen consequences, potentially allowing disproportionate and inappropriate development, in an unsustainable location within the national park, solely on the basis of cross subsidising an existing community use. I will propose the inclusion of a qualification that any enabling development should be “appropriate”, which could then allow decision makers to be able to rule out development which would otherwise be unacceptable.

77. The policy also introduces, in addition to the above test, an additional requirement that alternative provision to replace the lost facility should be available. I consider that it is unreasonable, for example, for a change of use of a non-viable village shop to be prevented from finding a new use and standing empty, if there is no alternative retail provision in the locality. I will therefore remove the word “only” I will also propose that the policy only needs to comply with one of the criteria rather than both.

78. I seem to recall that at one time Rake had a small village shop, but that closed.

Recommendations

In the first paragraph remove “only”

In the first bullet point insert “appropriate” before “enabling”

At the end of the first bullet point replace “and” with “or”

Policy CH3: Public Open Space, Village Greens and Local Green Space.

79. This policy sets out two types of designation – public open space and local green space. The majority of the sites appear on both lists. The policy covering public

open space requires that they should be protected from building development other than in very special circumstances. Similarly, the local green spaces are also protected from building development other than in very special circumstances. Both policies also presume against restricted recreational uses such as golf courses. Therefore, the effects of designation is the same - a presumption against building developments other than where very special circumstances exist.

80. Two sites are not designated as local green spaces, but are included as public open spaces as they are village greens. Village greens are subject to their own statutory protection under The Commons Act 1876, but that is not necessarily a planning designation and there are no criteria that would prevent them from being designated as local green space. These two sites are at Fynings Recreation Ground and Rake Recreation Ground. I am satisfied that both would be held in the same way as other green spaces as demonstrably special by their local community, not least for the recreational value.
81. In order for the site to be classed as a local green space, it is required to meet all the criteria set out in Secretary of State's paragraph 100 of the NPPF.
82. This requires that the local green spaces must be in reasonably close proximity to the community they service. I am satisfied that in terms of sites LGS1, LGS2, LGS 3, LGS4, LGS5, LGS6, VG 24 and VG 26, LGS8, LGS9, and LGS10, these can be assumed to be situated close to the communities within the parish that they predominantly serve.
83. The second requirement is that they be demonstrably special to the local community and hold particular local significance. In that regard I am satisfied that all the proposed local green spaces are demonstrably special.
84. The final requirement is that the local green space must be local in character and "not an extensive tract of land". There is no definition given in national or local guidance as to what the minimum size of an "extensive tract of land" is. In order to come to my own conclusions as to whether any of the sites are above that threshold, I have sought information as to the respective sizes of the proposed local green spaces.
85. The largest area is Weavers Down, at 47 ha within the parish, but it actually extends beyond the parish boundary. The next largest area is Chapel Common at close to 31 ha and that is again is only the extent of the Common falling within Rogate parish and Chapel Common extends further eastwards. The other large areas are Rake Hanger at 28.3 ha and Durford Heath at 23.5 ha.
86. In my experience, at these hectarages, the four areas of heathland and woodland must be classed as "extensive areas of land". I am not aware of any other neighbourhood plan which has designated such extensive areas of land, as local green space, and indeed I am aware of many examinations where in smaller areas of land have been rejected, on the basis that they are judged to be "extensive tracts of land".
87. Whilst these areas are clearly very important areas of open space and some, such as Durford Heath, Chapel Common and Weavers Down attract, many users from

a wider area than Rogate parish, so in these cases the three local green spaces could not be described as “local in character”.

88. If the 4 open spaces do not qualify as local green spaces, nevertheless I believe that they meet the definition of being “open space of public value”, which offer important opportunities for sport and recreation and can act as a visual amenity. This is the definition used in the glossary to the NPPF. The relevant national policy for such areas is set out in paragraph 97 of the Framework which states, as does the proposed neighbourhood plan policy, that the areas should not be built upon, but rather than refer to very special circumstances, it sets down 3 specific criteria to be met. This protection is to a large extent also encapsulated in Policy SD45 and 46 of the South Down Local Plan.
89. However, the four areas benefit from their inclusion within the National Park and its statutory purposes covering their landscape and recreational value and, in the case of a number, they are also protected as sites of national, and in some cases, international importance for nature conservation. I am satisfied that these areas, which cannot be classed as local green space, nevertheless are comprehensively protected for their landscape, ecological and recreational value by other planning policies in national guidance and through the South Down Local Plan. I will therefore be proposing that these 4 sites be removed from the policy. However, I will be adding to the list of the local green spaces, the two village greens. I did request that detailed plans be prepared, setting out the boundaries of the LGS and I will recommend that these maps be referenced in the policy and included within this section of the neighbourhood plan.
90. In terms of the impact of designation on development management decisions, paragraph 101 of the NPPF sets out that the Secretary of State’s expectation namely that they should be consistent with policies for the Green Belt. The implication of that would be for the largest areas (which I am recommending be deleted) would be that certain material changes of use of the land such as outdoor sport and recreation, which preserve the openness of the land, would not be classed as inappropriate development. Therefore, it could be argued that LGS status would not provide the level of protection the community is actually seeking through that designation.
91. I did receive one representation from the land owner adjacent to Terwick Wood who is concerned that the LGS designation could interfere with covenants and rights which allow him, under the terms of his disposal of the land to the Parish Council, should he ever wish to exercise them in the future, to be able to run services through the area. The protection conferred by LGS status only covers matters which require planning permission and it would not interfere with private rights between adjacent landowners, which are a civil matter. The existence of such private rights would not affect any decision as to whether to confer LGS status.

Recommendations

Rename the policy “Local Green Spaces”

Replace the policy with

“The following areas as shown on Maps X – Y are designated as local green space where any development proposal would not be permitted

unless it meets the requirements set out in Paragraph 101 of the NPPF (2019):

LGS1: Rogate Recreation Ground

LGS2: Terwick Woodland

LGS3: Garbetts Wood

LGS4: Hugo Platt play area and public open space

LGS5: Oliver's Piece

LGS6: Lupin's Field, Terwick

LGS10: Fynings Moor SSSI

VG 24: Fynings Recreation Ground

VG26 Rake Recreation Ground"

The site numbers and the maps need to be amended accordingly, as a consequence of this recommendation

The Referendum Area

92. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the amended area of the Rogate and Rake Neighbourhood Plan as designated by the South Downs National Park Authority on 14th March 2013 and amended on 1st October 2020 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

93. I congratulate Rogate Parish Council and the Steering Group on reaching this important stage in the preparation of the neighbourhood plan. The plan making has been something of a marathon endeavour, with work first starting on the neighbourhood plan back in 2013. The outcome of this examination is certainly a triumph of perseverance for those involved in its preparation. I believe that the plan will, in conjunction with the South Downs Local Plan, provide a sound basis for determining planning applications in Rogate parish into the future.

94. 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.

95. I am therefore delighted to recommend to SDNPA that the Rogate and Rake Neighbourhood Development Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

26th February 2021