

Lamberhurst Neighbourhood Development Plan 2016-2036

Submission Version

A Report to Tunbridge Wells Borough Council on the Examination of
the Lamberhurst Neighbourhood Plan

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Date

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Executive Summary

My examination has concluded that the Lamberhurst Neighbourhood Area 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 –

- Designation of five local green spaces and clarifying that development on these will only be allowed in very special circumstances.
- Removing restrictions on the planting of specific species.
- Removing reference to the maintenance of unspecified open land between Lamberhurst and Lamberhurst Down and list in the policy 12 key views.
- Delete the flood policy.
- Allow the enhancements to the public right-of-way network.
- Listing all the community facilities covered by the assets of community value policy.
- Amendment to the broadband policy.
- remove the developer contribution policy.
- Removal of the housing allocation policy.
- Removing the requirement to have to justify a one for one replacement of a dwelling
- Removing the reference to a maximum density of 30 dwellings per hectare.
- Amending the heritage policy to differentiate between proposals that cause substantial harm and less than substantial harm to the significance of heritage assets and listing all the non-designated heritage assets
- Deletion of the parking policy.

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 that allows local communities to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies that 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 saved policies of the Tunbridge Wells Borough Council Local Plan, adopted in March 2006, and the Tunbridge Wells Core Strategy, adopted in June 2010. 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 Lamberhurst Parish Council. A Neighbourhood Plan Steering Group was appointed to undertake the Plan's preparations made up of Parish Councillors and local residents.
3. This report is the outcome of my examination of the Submission Version of the Lamberhurst 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 Tunbridge Wells Borough Council.

The Examiner's Role

4. I was appointed by Tunbridge Wells Borough Council in January 2021, with the agreement of Lamberhurst Parish Council to conduct this examination.
5. 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 Tunbridge Wells Borough Council and Lamberhurst Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. 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
7. 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 Lamberhurst Neighbourhood Plan area.
 8. 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 been developed and submitted by a qualifying body?
 9. I am able to confirm that the Plan, if modified by my recommendations, only relates to the development and use of land, covering the area designated by Tunbridge Wells Borough Council, for the Lamberhurst Neighbourhood Development Plan, on 18th December 2017.
 10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2016 up to 2036. The emerging version of the Tunbridge Wells Local Plan now has an end date of 2038 and I consider that it is expedient that the two plans have the same period and I will be recommending that the plan should also run until 2038. The Parish Council has agreed to that suggestion.
 11. I can confirm that the Plan does not contain policies dealing with any “excluded development”.
 12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
 13. I am satisfied that Lamberhurst Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

The Examination Process

14. 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 forward a case.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. I am satisfied that I can properly examine the Plan without the need for a hearing.
17. I carried out an unaccompanied visit to Lamberhurst on the morning of 27th February 2021. I parked in the car park by the playing fields and I walked around the village. I saw for myself the proposed Local Green Spaces and the community facilities referred to, including making a visit to the village store. I was able to appreciate the quality of the main village Conservation Area and the mix of listed and non-listed buildings. I then toured a number of the more recent housing developments within the village, and noted for myself the car parking situation before exploring the countryside of the AONB, including The Down and Hook Green. I also saw the housing site which is to be allocated by the Borough Council in the Pre- Submission version of the emerging Local Plan. I also experienced the views from a number of the proposed key viewpoints.
18. Following my site visits, I prepared a document seeking clarification on a number of matters, which I sent to both the Parish Council and Tunbridge Wells Borough Council, entitled Initial Comments of the Independent Examiner, dated 2nd March 2021. I received a response from the Parish Council on 31st March 2021 and from Tunbridge Wells Borough Council on 1st April 2021. The responses have been placed on the respective websites. The responses prompted me to issue a Further Comments document on 2nd April seeking further clarification on a number of matters as well as seeking comments on extending the plan period by 2 years. I received a response to that second document on 15th April 2021. This prompted a further exchange of emails to clarify certain matters particularly in relation to one particular viewpoint. I have asked that all these documents be made available on the respective websites.

The Consultation Process

19. The idea of producing a neighbourhood plan was first outlined at a public meeting held in the Memorial Hall on 18th April 2017 which was attended by 70 people.

20. Work on recruiting and training 25 volunteers took place between December 2017 and February 2018 and 5 working groups were established reporting to a Steering Group.
21. An early information gathering exercise was undertaken through a questionnaire which was distributed between 26th June 2018 and 21st July 2018 which produced 330 responses. A separate questionnaire was sent to 90 local businesses which had a 67% response rate.
22. The evidence gathered allowed a number of development options to be generated which were assessed and discussed at a workshop held on 27th September 2018. There were a further 5 workshop sessions held, which imaginatively included a Lego family session, all of which were held between November 2018 and January 2019 which looked at housing and design, traffic and economy, landscape and community and business.
23. All this activity culminated with the preparation of the Pre-Submission version of the Neighbourhood Plan which was the subject of an eight - week consultation, known as the Regulation 14 consultation, which ran from 12th July to 6th September 2019. In total 112 representations were received from local residents and 6 representations were submitted by statutory consultees. These are fully set out in Appendix 8 of the Consultation Statement.
24. 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.

Regulation 16 Consultation

25. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation, which took place over a six- week period, between 30th November 2020 and 11th December 2020. This consultation was organised by Tunbridge Wells Borough Council, prior to the Plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
26. In total, 15 responses were received, including: Natural England, South East Water, Southern Water, Kent County Council, Tunbridge Wells Borough Council, Environment Agency, High Weald AONB Unit, UK Power Network, CPRE Kent, Network Rail, Highways England, Historic England and from 3 local residents.
27. I have carefully read all the correspondence and I will refer to the representations where relevant to my considerations and conclusions in respect of specific policies or the Plan as a whole.

The Basic Conditions

28. 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 are known as the Basic Conditions as set down in legislation. It will be against these criteria that my examination must focus.

29. 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

30. The development plan comprised the saved policies of the 2006 Local Plan and the 2010 Core Strategy. A Borough Site Allocations Plan adopted in 2016 does not include any allocation within the parish. In addition the development plan incorporates the Kent Waste and Minerals Plan 2016 and the Kent Mineral Sites Plan 2020 but these two plans cover matters that are cannot be covered by a neighbourhood plan policy.
31. The 2006 local plan has been overtaken by the later adopted plans, but a number of its policies were saved in 2009. One of the saved policies is Policy LBD1 which deals with proposals outside of the limits to development. That local plan also establishes the limits to development around the main village of Lamberhurst.
32. The Core Strategy 2010 - 26, adopted in June 2010, sets out a number of strategic policies which have been identified by Tunbridge Wells Borough Council as being relevant for the purpose of the basic conditions. These include Core Policy 1 – Delivery of Development which relates back to a spatial strategy with seeks to protect the character of the borough’s villages by limiting new development to within the limits of development, unless it is required to meet local needs. It also requires development to contribute to provide/contribute to “services, facilities and infrastructure for which they create a need”. Core Policy 3 encourages proposals that reduce reliance on private transport. Core Policy 4 – Environment, seeks to conserve and enhance the High Weald AONB, adopt a hierarchal approach to the protection of nature conservation as well as protecting various heritage interests.
33. Core Strategy 5 deals with sustainable design and construction including taking a sequential approach in areas of risk of flooding.
34. The plan sets a housing requirement in Core Policy 6 of 6,000 dwellings over the period 2006 – 2026, of which 65% should be on previously developed land and requires 35% affordable housing on site capable of accommodating 10 units or more. It allows for the consideration of exception sites. Employment provision is

covered by Core Policy 7 and includes safeguarding existing employment uses and strengthening the rural economy including promoting tourism development. The loss of community facilities is resisted in Core Policy 8. Finally, Core Policy 14 deals with Development in the Villages and Rural Areas. Lamberhurst is identified as one of the villages in the plan's settlement hierarchy. Collectively these are expected to deliver 360 net additional dwellings across all the villages and rural areas. It seeks to protect the countryside for its own sake and maintain the landscape character and quality of the countryside with village centres being the focus for communities.

35. The Site Allocation Local Plan does not make specific proposals to Lamberhurst but notes that the 360-unit housing requirement from the villages has been provided but local needs housing and affordable housing would continue to be supported.
36. The Borough Council has recently published for consultation its Pre- Submission version of the Tunbridge Wells Borough Local Plan which covers the period 2020 - 2038. The plan proposes to deliver a minimum of 12,204 dwellings, including using previously developed land and focussing development within the limits to development of settlements whilst limiting development within the High Weald AONB. The plan has a specific policy for Lamberhurst parish to deliver 25 - 30 new dwellings on land at Spray Hill, covered by Policy AL/LA1. The plan proposes a new and separate limit to development around The Slade, land at Sand Road and land around the Vineyard, which could allow further opportunities for windfall sites coming forward. This plan, whilst indicating a clear direction of travel, contains what are draft policies which will be subject to further public consultation and examination and have not been adopted policy. Therefore, this document is not relevant to the test of general conformity as set out in the basic conditions.
37. 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 Tunbridge Wells Core Strategy and the saved policy within the Tunbridge Wells Local Plan 2006.

Compliance with European and Human Rights Legislation

38. Tunbridge Wells Borough Council issued a Screening Opinion, in a report dated February 2020, which concluded, after consulting the 3 statutory bodies, that a full strategic environmental 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 not be required.
39. The Borough Council, as competent authority, in a screening report dated October 2019, screened the Plan under the Conservation of Habitat and Species Regulations. This concluded that a full Habitat Assessment would not be required as the plan would not be expected to have any significant effect upon European protected site the nearest of which is the Ashdown Forest SPA / SAC.
40. I am satisfied that the basic conditions regarding compliance with European legislation, including the more recent 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

41. I must start by congratulating the Steering Group and the Parish Council on reaching this important stage in the preparation of the neighbourhood plan for Lamberhurst parish. This is a plan that clearly reflects the character of Lamberhurst village and the parish's other settlements which are set in the beautiful High Weald countryside. The plan sets out a vision for the parish and addresses issues that are clearly of importance to the community.
42. The neighbourhood plan will, if it passes referendum, be an important tool to guide and shape development, which will be used by decision-makers who would not have been involved in the preparation of the document. It is therefore important that the Parish Council's intentions are clear, so that decision-makers will be able to use the plan and its policies with confidence. There are a number of issues where the intentions are less than clear and there has been some changes in local green space proposals, since the Submission document was issued.
43. During my consideration of the plan, I asked the Parish Council to prepare clearer plans showing the location of sites which identify various sites which are designated in the plan or are relevant to seeing the extent of policy protection.
44. Chapter 6 is entitled "Our Policies" and it then sets out what appears to be policies, in a shorthand form and which differ from the wording of the actual policies. The fact that they are not identical means that the chapters inclusion could create confusion as to which policies are to be implied when a planning application is being considered. I have raised this issue with the Parish Council in my Initial Comments document and it agreed with my suggestion that Chapter 6 be removed, as unnecessary and leaving the status of the policies open to uncertainty. The final document could include a list of the policy numbers and their titles after the index to aid navigation within the document but should not attempt to summarise the gist of the policies.
45. On a related theme, each policy is contained within the yellow box, but that policy also has a title "Policy Objective", contained within the policy box, which appears to be related to a quote setting out the intention of the policy. In most cases this appears before the "Policy Objective" heading, but not in every case and it could be construed that that title could be relating to the first paragraph of the policy. This is entirely a matter of policy presentation and the loose presentation has been acknowledged by the Parish Council as a matter that needs to be resolved. I recommended the policy only should be that text within the yellow box so is there to be no ambiguity.
46. The plan has been produced at the same time as work has been progressing on the preparation of the new local plan by Tunbridge Wells Borough Council. There has evidently been close cooperation between the Tunbridge Wells planners and

the volunteers preparing the neighbourhood plan. There is no problem with the neighbourhood plan proceeding in advance of a local plan, but it is not appropriate to include reference to draft local plan policies within the wording of the neighbourhood plan policy, as in effect, the neighbourhood plan, once made, would be conferring development plan status on local plan policies which are still subject to public consultation as well as examination and could change. It is good practice for a neighbourhood plan to be reflecting the direction of travel of district policy, but for the purpose of the basic conditions, it is the adopted local plan that the neighbourhood plan needs to be in general conformity with. I have not identified any fundamental problems in this regard.

47. Moving on from these issues the plan seeks to shape development in the area with a high landscape value being an area of outstanding natural beauty with a historic built environment, which is recognised through the designation of two conservation areas. The plan aims to conserve and enhance the natural assets of the countryside, both from a landscape point of view and as a resource enjoyed by local residents through the public right-of-way network, as well as recognising key valued views. The plan identifies the community facilities and open spaces which are of importance to local residents.
48. Whilst the plan relies on the emerging local plan to deal with the level of housing requirements to be delivered in the parish, by allocating the Spray Hill housing site, the neighbourhood plan does establish policies for the type of housing the parish needs. In terms of the economic policies, the plan supports rural businesses in the way that is consistent with accommodating development in a landscape with the highest level of public protection provided by the AONB status.
49. Overall, I am satisfied that the plan will contribute to the delivery of sustainable development within the Lamberhurst parish. There are a number of cases where I have had to recommend changes to ensure that individual policies have regard to the Secretary of State's policy and advice with respect to specific issues. However, my overall assessment of the plan, taken as a whole and if modified in accordance with my recommendations, has had regard to the policies and advice from the Secretary of State.
50. 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. Such changes are likely as a result of my recommendations, in order that the Plan will still read as a coherent planning document.
51. Following the publication of this report, I would urge the Parish Council and Tunbridge Well's planners to work closely together to incorporate the appropriate changes which will ensure that the text and policies of the Referendum Version of the neighbourhood plan accord with my recommended modifications. There will also need to be editorial matters to resolve such as policy numbering, as a consequence of my recommended changes. It can also address other drafting issues raised by the Borough Council which are not matters that I need to

address in terms of complying with the basic conditions and other legal requirements

Recommendations

Insert appropriate maps as set out in my recommendations, where referred to a Map X

Remove policy quotes and title Policy Objectives from the yellow box for each policy, which should only cover the wording of the policy.

Remove Chapter 6 “Our Policies”

The Neighbourhood Development Plan Policies

Policy L1: Green Spaces

52. Somewhat unusually in my experience, the emerging local plan is proposing to identify local green spaces. That is perfectly appropriate, but it does mean that the local green space status will only be confirmed, for those sites within the parish, when the new local plan is adopted. The Parish Council originally stated in its submission document that it supports the designation of the seven spaces being considered by the Borough Council, but in addition is proposing to confer the same status on the two areas of common land at Hook Green and The Down and also the riverbank adjacent to the rear of Brewer Street.
53. I queried with Borough Council whether, if the neighbourhood plan were to designate all the green spaces, whether the intention would be to still include them in the emerging local plan. The response from the Borough Council was that it would no longer seek to pursue these designations, if they had already been given protection within the neighbourhood plan.
54. I had concluded that the most to be expedient way to protect these areas will be to list all the green spaces which have either been promoted or are supported by the Parish Council, in this policy. Upon asking for an updated map and table to be submitted, I was informed that the Parish Council, that after further discussions the plan was only now promoting 5 green spaces on the basis that they met the specifications being set by the Borough Council for its LGS designations, namely St Mary’s Churchyard, Victoria Walk including the War Memorial, Chequers Field, The Slade allotments and the Brewer Street North Allotments. The Borough Council has informed me that the Regulation 19 version of the emerging Local Plan, no longer supports the inclusion of St Mary’s Churchyard on the basis that it is already sufficiently protected. I do not see that as a barrier to a community choosing to recognise a green space which is clearly valued. The changes from the submission version will require amendments to the supporting text and an updated Table 7.1.
55. Whilst I may have been prepared to recommend the original green spaces it would not be appropriate for me to include LGS which is not being supported by the Parish Council and I will only include the 5 now being put forward for designation.
56. The wording of the policy reflects the NPPF’s approach to development on LGS sites. It then gives three examples of what could constitute “very special

circumstances”. As examples they offer some guidance as to how the policy should be you used and I consider that this text would be more properly placed in the supporting text.

Recommendation

Replace the policy with: “The following green spaces as shown on Figure X are designated as local green space, which will be protected from development except in very special circumstances

- **St Mary’s Churchyard**
- **Victoria Walk including the War Memorial**
- **Chequers Field**
- **The Slade Allotments**
- **Brewer Street allotments north**

Policy L2: Development within the High Weald AONB

57. I note that the policy has the support if the High Weald AONB unit and the reference to the Management Plan and its evidence base sets the context of the special character of the AONB.
58. In terms of the requirements of the policy, as submitted is states “any development must “demonstrates that it” meets a whole range of criteria”. The Parish Council has confirmed these requirements are intended to be imposed only where it is relevant to the application, for example, where a development is adjacent to watercourse or close to a historic routeway or ancient woodland.
59. I am not satisfied that a planning policy can prevent the planting of laurel or leylandii. The planting of plants and shrubs is not an act of development requiring planning permission and the Borough Council has confirmed that a condition preventing their usage would not meet the 6 tests of a planning condition as set out in paragraph 55 of the NPPF. I note that the planting scheme for native plants has not yet been published and so has not been subject to this examination. I will be recommending that the penultimate bullet point be deleted. The encouragement of the use of appropriate species can be included in the supporting text.

Recommendations

In the second sentence of the third paragraph, replace” In particular any” with “Where relevant”
Delete the penultimate bullet point

Policy L3: Retaining parish character and conserving the landscape

60. The first paragraph sets out the purpose of the policy and can be omitted from the actual policy wording.
61. I sought clarification of the what open land is required to be retained, as set out in the third bullet point, to secure the separation of Lamberhurst and Lamberhurst Down. The Parish Council did not identify any parcel of land and its response referred me to saved Policy LBD1 which seeks to “maintain the separate identity of settlements and prevent their coalescence and erosion of largely undeveloped

gaps between settlements”. On reflection, the Parish Council concede that maybe the term “valued view’ may have been better used. I am not convinced that is the solution as the question is what land separates the two settlements. I consider that the objective of the policy can be achieved, merely by removing reference to “and open land between” so the objective is clear, namely that any proposal must maintain the identity of the two settlements to prevent their coalescence.

62. The policy refers to “key views *including...*” and then sets out 6 views, whilst the supporting text refers to 12 views which are set out more fully in the Key Views evidence document. I consider that the plan should be specific as to what are the important views the community has identified and which warrant protection rather than leaving it vague and allowing doubt whether other views beyond the six, warrant assessment in the consideration of planning applications in the parish. I intend to recommend all twelve key views be included, now that clarification has been sent that confirms that viewpoint 4 is from a public footpath as the earlier documents plotted the viewpoint in a wrong location.

Recommendations

Delete the first paragraph

In the third square bullet, delete “, and open land between,”

Delete all text after the in the fourth square bullet “key views” and insert “as set out in detail and from the viewpoints shown in the Key Views Evidence Document and shown in Figure X

- ***View 1- The view from the Vineyard looking across in the direction of Bayham Abbey from footpath WT3862***
- ***View2 – The view to Lamberhurst Church from Golf Course***
- ***View 3 – The view from School Hill towards the village (TQ 679336443)***
- ***View 4 – The view from footpath WT374 from the Scotney Estate side of A21 across to St Mary’s Church, Lamberhurst***
- ***View 5 – The view from Sand Road footpath to Lamberhurst school across to Pearse Place and landscape behind***
- ***View 6 – The view from High Street looking towards the triangle green at the junctions of Broadway and Spray Hill***
- ***View 7 – The view from the top of Town Hill looking towards the centre of the village***
- ***View 8 - The view from footpath looking away from the village (TQ67453560)***
- ***View 9 – The view from the public footpath at the top of the hill near Mount Pleasant Lane looking across the valley towards Lamberhurst Village***
- ***View 10 – View from public footpath WT386 looking across the Vineyard toward the village***
- ***View 11- The view from Town Hill toward the Down***
- ***View 12 – The view from Clayhill Road towards Bayham Abbey Ruins***

Policy L4 – Biodiversity

63. The first paragraph is the objective of the policy which is set out in shorthand form what the policy is seeking to achieve and it can be omitted.
64. The policy places a requirement on all development proposals through the use of “must”, in terms of taking opportunities to protect and enhance natural habitat and to encourage biodiversity. It then goes on to set down the types of sites where, in particular, the policy would apply.
65. To impose through the use of “must”, a requirement to protect and enhance all forms of natural habitats, goes beyond the hierarchical approach towards the protection of biodiversity which is set out in paragraphs 174 and 175 of the NPPF. I will propose to change the emphasis from “must” to “will be expected”, which gives the decisionmaker greater latitude for dealing with sites with a low habitat status, but retains the requirement in terms of nationally designated sites, irreplaceable habitats and sites containing priority species, in line with the Secretary of State approach described in the NPPF. This is well set out in the third paragraph of the policy, which sets out the tests a development proposal affecting such sites, needs to be subjected to.
66. The Parish Council has produced a plan shows the location of the ancient woodlands, local wildlife sites and sites of special scientific interest. It has also prepared a plan showing the location of Priority Habitats in the parish which needs to be incorporated into the plan.

Recommendations

Delete the first paragraph

In the second paragraph replace “must” with “will be expected to”

In the third paragraph change “map” to “maps” and insert Priority Habitats Map

Policy L5 – Water Management and Flood Risk

67. I note that Lamberhurst is specifically referred to in the 2006 Local Plan, as a part of the borough which is known to experience flooding issues.
68. In this case I am not satisfied with this neighbourhood policy offers any additional controls or variations, from that which is already set out in existing local plan policy or indeed from that found in the NPPF or the NPPG regarding flooding issues. My concern is that the policy could be argued to be less stringent than the existing policy, for example, in terms of sequential approach it refers to “siting as *far as possible* in areas of low flood risk and *avoid* areas....”. National policy uses stronger language, such as “directing development away from areas of highest risk” and “steering development to areas with the lowest risk of flooding”.
69. I do not consider that the policy has any local dimension to national policy , and it is essentially only repeating existing policy, albeit perhaps using weaker language, apart from the measures which would fall under the heading of water management, where the policy refers to using flood risk management measures for “controlling or eradicating invasive plant species”. I do not consider that the planning system can be used to deal with such issues. I do not consider that the

management and eradication of these species would fall within the remit of being a policy for the use and development of land, which is the purpose of a neighbourhood plan policy. These are environmental management measures which fall within the regulatory control of the Environment Agency.

70. Secretary of State advice set out in paragraph 16f) is that policies should “serve a clear purpose, avoiding unnecessary duplication of policies that apply to particular area (in policies in the Framework, where relevant). As this policy essentially does that, I do not believe that it meets the basic condition of having regard to Secretary of State policy and advice.
71. Accordingly, I recommend the policy be deleted.

Recommendation

That the policy be deleted.

Policy L6 - Public Rights of Way

72. In view of the extensive network of public rights of way within the parish, I consider that there are no locations which would not have “easy access to the public rights of way network” and therefore I consider that the first paragraph would not be a constraint on new housing development.
73. Paragraph 98 of the NPPF requires planning policies “should protect and enhance” public rights of way. In this case the emphasis within this policy is maintaining the right-of-way “through the site to a similar standard, wherever possible”. I consider that in line with the Secretary of State approach the opportunity presented by development, should also include the possibility of enhancing the public right-of-way which could, for example, improve access or surface treatment or as suggested by the Borough Council, linking up with other rights of way in the area.
74. The final paragraph of the policy seems to be imported from another source as it refers to “plans should clearly state” how an application should be determined rather than setting out that in Lamberhurst parish, planning applications which would adversely affect the existing PROW network, will not be permitted. I will propose appropriate modifications in the interest of the clarity of the policy.

Recommendations

In the second paragraph, replace “to a similar standard, wherever possible” with “or enhanced”

In the final paragraph, delete “plans should clearly state that”

Policy C1 – Assets of Value to the Community

75. This policy seeks to designate a number of community assets, the effect of which is to offer them some level of protection. That is a purpose encouraged in paragraph 92 of the NPPF. One of these is already protected as local green space, namely Chequers Fields. This LGS designation offers a higher level of protection against their loss, as a result of a development proposal. This policy will offer the same site, a lower level of protection than offered by Policy L1, as it allows replacement facilities to be provided. I will recommend that this open space is removed from protection of being a community asset, to avoid policy duplication

and possible confusion as to which policy would apply at development management stage.

76. The plan appears to be advocating two categories of community assets, those which are proposed to be *designated community assets* and separately, *other assets*, which include St Mary's Church, the doctor's surgery and St Mary's primary school. I sought clarification from the Parish Council as to why the latter three were not designated community assets, as it is my intention to refer to them all as "community facilities", as the nuances of different model of ownership will not necessarily be material from the community's point of view, as users of the assets. That appears to be no difference, in terms of the benefits they provide the local community, except that the ownership of some appear to be in private or commercial ownership. I do not consider this is necessarily a valid distinction as some of these designated facilities are also not in private or commercial ownership such as the playing fields or the church and also that the policy does accept that facilities could be lost, if a new owner/ provider could not be found if the asset were to be marketed, in the event of the current use not being viable.
77. In the interest of clarity, I will propose the remaining assets be described as community facilities, and should be listed in the policy, as well as shown on a map, which also can be referred to in the policy.

Recommendation

Retitle policy "Community Facilities"

In the first paragraph, replace "our existing facilities" with "the following community facilities as shown on Map X" and replace "LNDP" with "development plan"

Insert after the first paragraph insert

- ***Car park to the rear of the Memorial Hall***
- ***Car park below the Brown Trout***
- ***The Chequers Inn***
- ***Victoria House Stores***
- ***Lamberhurst Playing Field***
- ***Village Clock***
- ***War Memorial Hall***
- ***The Elephant's Head Public House***
- ***St Mary's Church***
- ***Doctor's Surgery***
- ***St Mary's Primary School***

Policy C2 – Broadband and Mobile Infrastructure

78. The wording of the policy is somewhat strange, in that the first paragraph supports development that will provide access to superfast broadband and mobile phone coverage, but it goes on, in the next paragraph, to imply that there will be particularly supported if it can be shown that proposals meet four criteria. I consider that the drafting of the policy came be improved by stating that a development proposal will be supported if they meet the criteria. Otherwise,

proposals that did not meet the criteria would still be supported which would undermine the purpose of setting the criteria.

79. The second part of the policy, entitled “Fibre To The Premises (FTTP)” refers to what is a draft, emerging local plan policy but it is quoting the Regulation 18 version of the policy, as opposed to the more recent Pre-Submission version which only refers to the required provision within the limits of development of certain settlements and that version does not include Lamberhurst. Whilst the local plan policy is draft, nevertheless the thrust of the policy is to encourage access to services from a range of providers and, as paragraph 112 of the NPPF states, policies should prioritise fibre connections to both existing and new development. I consider the developers can only be expected to provide the infrastructure necessary to allow third-party providers to deliver superfast broadband services. The infrastructure should be such as to allow these third-party providers to deliver the speed of internet access being quoted. I will recommend appropriate modifications to the policy.

Recommendations

In the first paragraph, after “supported” insert “when they meet the following criteria”

Delete the second paragraph

Replace all text after the heading “Fibre To The Premises” with

“ All new residential and employment developments will be expected to provide the necessary infrastructure including ducting, to allow for the delivery of fibre to enable the connection of the properties to superfast broadband, unless it can be demonstrated that the that provision is neither practical or financially viable, in which case other non – next generation access technologies, including wired and wireless infrastructure, capable of delivering all-inclusive internet access speeds of 24 Mbps, will be expected.”

Policy C3 – Developer Contributions

80. The requirement for developer contributions is already set out in Core Policy 1 of the Tunbridge Wells Core Strategy which states: -

“Developments on allocated and unallocated site will be required either to provide, or contribute towards the provision of the services, facilities and infrastructure which they create a need”.

81. Furthermore, under the terms of Regulation 122 of the Community Infrastructure Levy Regulations 2010, planning obligations must only be sought where they meet all the following tests:

- are necessary to make the development acceptable in planning terms
- be directly related to the development and
- fairly and reasonably related in scale and kind to the development

82. Any contributions sought by the Parish Council, to seek funding for projects to “enhance community life” will have to meet these criteria. Similarly, requirements to deliver affordable housing are already covered by other policies, as well as the

enhancements to the public rights-of-way network which are provided for in Policy L6.

83. The final paragraph of the policy covers a scenario should the Borough Council chose to introduce a Community Infrastructure Levy Scheme. It sets out how the Parish Council, under that new regime, will spend its proportion of the receipt. That is not, in my view, a policy for the use of development of land capable of being used to determine the planning application. It is essentially a budgetary decision, which can properly be included within the neighbourhood plan, but only in the supporting text rather than as a statement policy.
84. I do not consider that the approach of creating a wish list of costed projects to be funded by developer contributions, will meet the tests set out in Regulation 122 or set out in paragraph 56 of the NPPF. The plan could have set out what infrastructure would be required as a result of new development, but it has not undertaken that work.
85. In view of the above, I do not consider this policy as submitted, meets the basic conditions and I recommend that this policy be deleted.

Recommendation

That the policy be deleted.

Policy H1 – Location of Housing Development

86. A neighbourhood plan cannot, through a policy in effect, seek to allocate land which is being promoted in another part of the development plan, especially when that is only a draft allocation. The proposed housing and open space allocation at Spray Hill form part of the Borough Council's emerging proposals and will be tested as the plan goes through to adoption. There is a possible scenario, although unlikely, that the final version of that plan may not have any allocations in Lamberhurst.
87. The recognition that the plan itself is not allocating land and is relying on the local plan to undertake that task can be included in the supporting text. The policy can refer to any allocations which are within the local plan in general form, as well as other proposals which met the criteria set, will be supported. With that proviso, I am satisfied that this is an appropriate policy to guide the location of new housing.

Recommendation

In the second paragraph, replace “the emerging Tunbridge Wells Borough Local Plan (2019) and” with “an adopted local plan or”

Policy H2 – Housing Mix, Tenure and Affordability

88. This policy seeks to encourage the provision of 1 and 2 bed units and place a cap on the 4+ bedroom houses and sets out the plan's approach to affordable housing.
89. My first concern is that the policy refers to “*all proposals*”, however the nature of the policy is that it should any relate to proposals for “new residential development”. I can address that in my recommendations.
90. The plan looks to require the on-site affordable housing provision for schemes from three units up to nine. National policy is to allow in rural areas a lower

threshold than the 10 unit cut off elsewhere i.e. policies can have a lower threshold of five units or fewer.

91. I am satisfied that the housing needs assessment justifies the need for a threshold based on a lower threshold, in view of the high land values in this part of the AONB. I note that the policy does incorporate a degree of flexibility should financial viability evidence dictate otherwise.

Recommendation

In the first paragraph, after “All” insert “residential development”

Policy H 3 – Allocating Affordable Housing

92. A neighbourhood plan policy is a policy used to determine the planning application. The allocation of affordable housing is a matter for the Housing Authority rather than the local planning authority and it does so, in line with the Borough Council’s housing allocation policy, which may or may not include a local connection policy. Those decisions are based on its own legislative and other criteria, such as comparative housing need, rather than compliance with a planning policy. Planning policies set at borough level, support a certain amount of development within villages, and as such residential development within the parish will be contributing to a wider district level of housing need and specifically, housing need identified for the rural areas within the borough. The situation is different from policy relating to rural exception sites which allows development in locations where, ordinarily, new housing would not be consented. In these areas there is a specific requirement that the housing should meet parish-based housing requirements.
93. My conclusion is that a specific, parish based, local connection allocation policy does not fall within the definition of a policy for the use and development of land, but is rather proposing a housing allocation policy. As such I will be recommending the policy can be deleted although the supporting text can refer to the Borough Council’s housing allocation policy.

Recommendation

That the policy be deleted.

Policy H 4 – Rural Exception Sites

94. I consider the policy is an appropriate response to delivering local needs housing but the policy should refer to compliance, not just with policies in the neighbourhood plan, but other policies in the development plan which could also be relevant. I do not consider the policy needs to be explicit with respect to requiring the separate consent of the planning and housing authority as the contribution to meeting the local housing need will be a prime material consideration in such proposals.

Recommendations

In the first paragraph, replace “LNDP” with “development plan”

In the second paragraph, delete” endorsed by TWBC as a local planning and housing authority”

Policy H5 – Replacement Dwellings

95. The ability to replace an existing dwelling on a one-to-one basis is a fundamental, accepted aspect of the planning system, unless there are heritage issues regarding the building to be demolished and issues regarding the size and positioning of any replacement dwelling.
96. The policy, as originally submitted, only accepted the principal if the current building is found to be unstable or uneconomic to repair. Upon challenging this, in my Initial Comments document, I quoted examples such as a landowner's desire to achieve a more sustainable construction or to allow a building that would make better use of the site. The Parish Council's response was to widen the scope of the policy to allow buildings which are demonstrably more sustainable or allow a better designed building, which fits better with this locality. The policy offers no justification for a stance and I can see no in principle objection to any planning application for a replacement dwelling, so long as it meets the requirements set out and put sections a) and b) of the policy. To set applicants an additional test of needing to justify why a replacement is necessary, is in my opinion, onerous and could introduce uncertainty into the planning process, where it is not justified.

Recommendation

Replace the first two paragraphs with “The one for one replacement of existing lawful dwellings will be permitted subject to the following criteria”

Policy H6 – Conversion of Existing Buildings

97. I am very conscious that paragraph 79 of the Framework allows the conversion of “redundant or disused buildings which enhance the immediate setting” for residential use. In accordance with my earlier recommendations in respect of policy C1, I will replace assets of community value with the term “community facilities”.
98. I have no comments to make in terms of three criteria.
99. The final paragraph is not a statement of planning policy which could be used to determine a planning application and I will accordingly recommend that its intentions be moved to the supporting text.

Recommendations

Delete the first paragraph

In 2. replace “an asset of community value” with “a community facility”

Delete the final paragraph

Policy D1 – Design and New Development

100. Paragraph 125 of the NPPF requires “design policies should be developed with local communities so they reflect local aspirations and are grounded in an understanding and evaluation of each area is defining characteristics”.
101. In the submission version of the neighbourhood plan, the text referred to future proposals would be assessed a future character assessment. In subsequent

correspondence it appears that there is already such a document in existence, which was produced in 2018 and the Parish Council during the course of the examination requested that it be included as part of the submission document. However, that document had not formed part of the submission documents and will not have been part of the Regulation 16 consultation. I conclude that it cannot legitimately be introduced into the plan at this late stage and therefore cannot form part of this examination. I will therefore propose that the last paragraph of the policy be omitted.

102. Notwithstanding that, the plan itself does contain, to a limited extent, a description in the supporting text of the key design characteristics of the 3 settlement areas which can still be the basis for this policy.
103. The policy refers to the local character and distinctiveness of this part of the Kentish High Weald. I have to say that first bullet point will be less than helpful, particularly in guiding development within the Lamberhurst village, when it refers to the local character being “derived from low density development, set in landscaped grounds with soft boundary treatments which can help to integrate it into the High Weald landscape”. This may be an accurate description of the character of the area outside the village envelope, that statement does not in my judgement and from what I saw on my site visit, properly describe the distinctive character of the main village of Lamberhurst, which is developed at a much higher density, as the neighbourhood plan recognises in Policy D5. I will recommend that part of the policy be omitted and also the reference to the value and importance of the PROW network, because I do not believe that it is of relevance to the description of the design character of the parish.
104. Not all planning applications are required to submit a Design and Access Statement. Following changes introduced in 2015, only major planning applications or development within Conservation Areas are required to submit such a document. A neighbourhood plan policy cannot stipulate additional documents which must accompany planning applications. That is done through the Borough Council’s Local Validation Checklist.
105. I propose to amend the wording so that other applications are “encouraged” to demonstrate how their design has responded to their site’s context. Equally the conservation area appraisals will only be relevant for development within or affecting the setting of a conservation area. I note the policy does not require the 12 criteria to be met, the test is the design “should have regard to these considerations”.

Recommendations

After the second paragraph, delete the first and fifth bullet points

In the third paragraph, replace “should be” with “which are” and replace “showing” with “should show”.

After the first sentence of the third paragraph insert “Other planning applications are encouraged to submit that same information.”

In a. after “Lamberhurst Down” insert “for development with or affecting the setting of the 2 conservation areas”

Delete the final paragraph.

Policy D2 – Boundary Treatments

106. My only comment is that the final paragraph does not give a decision maker a sufficiently clear indication as to how the planning application should be determined through the use of the phrase “will not be welcomed”. I propose that the emphasis should be changed to, such features as high walls and fences and close boarded fences “will not normally be permitted”.

Recommendation

At the end of the final paragraph replace “is not welcomed” with “will not normally be permitted”

Policy D3 – Climate Change

107. In a Written Ministerial Statement to the House of Commons, dated 25th March 2015 the Secretary of State stated that “neighbourhood plan should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”.

108. I propose to retain the aspirations of the policy by referring to the “encouragement” of such measures are set out in the policy.

Recommendation

In the second paragraph, replace “should” with “are encouraged to”

Policy D4- Dark Skies

109. I have no concerns with regard to this policy which is consistent with the Secretary of State approach in paragraph 180 of the NPPF.

110. The final bullet point of the policy, contain a link to a document produced by the Institute of Lighting Professionals, which is in titled not as a “standard” but “Guidance Note 1 for the Reduction of Obtrusive Light 2020”. I would recommend that this actual document or its successor is referred to by name in the policy.

Recommendation

Replace the final bullet point with “follow the guidance issued by the Institute of Lighting Professionals in Guidance Note 1 for the Reduction of Obtrusive Light 2020” or any successor publication

Policy D5 – Housing Density

111. Whilst I do acknowledge the argument being advanced in the policy that “the appropriate density for a housing site should be led by achieving an attractive development that is in character with a village and the surrounding rural area”. I am not convinced that this necessarily justifies the setting a maximum density of 30 dwellings per hectares for all sites in the parish, which could prevent, in certain locations, what would still be acceptable development which makes efficient use of the land, also meets all the other requirements set out in the plan.

112. There is no evidence as to why the plan has adopted this figure of 30 dwellings per hectare as the maximum density and I propose to recommend that limit be removed as it is not evidence based.

Recommendation

Delete the final paragraph

Policy D6 – Historic Environment

113. The policy refers to conserving and enhancing the “*heritage*” of the parish. I believe the planning system is only capable of conserving “*heritage assets*” within the parish.
114. My concern with the policy is that it appears to offer blanket protection, as opposed to the decisionmaker having to assess the impact **on the significance** of the assets. At the same time, the wording would seem to suggest that the policy does not differentiate between proposals that create substantial harm and those that will result in less than substantial harm. I will propose a more nuanced approach, which reflects the Secretary of State’s approach.
115. I am pleased to see that the policy element relating to non-designated heritage assets reflects the approach advocated by the Secretary of State and that part does not need amendment although I will be recommending that the list of proposed non-designated heritage assets be listed in the policy.

Recommendations

In the first paragraph after “heritage” insert “assets”

Replace the third sentence of Section A with “Accordingly, development proposals which lead to substantial harm to the conservation and continued viable use of the assets will only be permitted where:

- ***The nature of the building means that it cannot be put to any viable use”***

Delete the first two bullet points

After the list of bullet points insert the following paragraph “Where a proposal results in less than substantial harm to the significance of a designated heritage asset, that harm shall be balanced against the public benefits of the proposal, including securing the optimum viable use”

In Section B, first sentence, before “non designated heritage assets:” insert “the following” and after “assets” insert “as shown on Map X”

- ***Village Clock attached to Old School Tower***
- ***Milestones – School Hill***
- ***Iron Bridge across the River Teise at Furnace Farm***
- ***Lock up: Old Village Gaol in Brewer Street***
- ***Lady Well: Court Lodge Park/ Golf Course***
- ***Hop Pickers Huts and Cook House – Furnace Farm***
- ***War memorial - School Hill***
- ***Telephone box outside War Memorial Hall on The Broadway***
- ***Furnace Mill***
- ***Tollsyle Furnace***
- ***Medieval Iron Site beneath A21 bypass”***

Policy D7 – Conservation Areas

116. I have no concerns regarding this policy.

Policy D8 – Parking

117. I note that there is a mismatch between the car parking standard in the neighbourhood plan and that which is emerging in the new Tunbridge Wells Local Plan. For example, a three-bedroom house would under the Borough Council standards require two spaces but the Parish Council's standard would require three spaces. I understand that Borough Council's standards have been set having regard to census derived information on car ownership levels, but whilst the Parish Council has referred to a parking survey, I do not believe that is measuring current car ownership levels within the parish but rather the number of properties without on-site car parking.
118. Whilst I understand that the issue of car parking will be an important issue from the resident's perspectives, it is unfortunate that the Parish Council has not presented evidence which would substantiate the adoption of the 1 space per bedroom standard.
119. As such I do not believe that the policy meets the important requirement that policy should be based on sound and proportionate evidence and accordingly, I will recommend that this policy be deleted, as not passing basic conditions.
120. I believe the parking requirements is already adequately covered by the final bullet point of Policy T1.

Recommendation

That the policy be deleted

Policy T1 – Sustainable Transport

121. I was concerned that reference to development seeking to assist the viability of existing bus services could be referring to the need for section 106 payments but the Parish Council clarified that the intention was that additional residents could, through additional passengers, assist the viability of the existing service or possibly new services.
122. Otherwise, I have no concerns regarding this policy which recognises the realities of living in this rural area.

Policy T2 – Traffic Management

123. The policy requires developers to submit traffic impact studies in support of their applications. That will be an over onerous requirement, if imposed on all development beyond and would go beyond the requirements set out by the Secretary of State, in paragraph 111 of the Framework, where such studies are only required where the development "will generate significant amounts of movement."
124. Similarly, the Secretary of State's policy is to set the threshold for considering the acceptability schemes higher than only support development which will produce "improvements to or do not to hinder the free flow of traffic in the parish". In paragraph 109 of the NPPF the Secretary of State sets the test, that development

should not have unacceptable impact on highway safety and that the residual cumulative impact on the road network of a proposals should not be severe.

Recommendations

In the first paragraph replace “LNDP and result in improvements to, or do not hinder, the free flow of traffic in the parish” with “the development plan and do not result in an unacceptable impact on highway safety and where the residual cumulative impact on the road network is not severe.”

In the next sentence, after “developers” insert “of schemes likely to generate significant amounts of movement”

Policy B1 – Business and Economy

125. The policy requires compliance with other policies in the neighbourhood plan. There are other relevant policies in the development plan, which could include local plan policy, which proposals may need to be compliant with, not just the neighbourhood plan policy. I will propose to change the wording accordingly.

126. The need for businesses seeking accommodation could not just come from firms seeking additional space, but also from those requiring new space if they are downsizing. I will therefore propose to recommend that reference to being “additional” floorspace be omitted.

127. In terms of the second bullet point, the wording of the final requirement is unclear when it refers to “help bring vacant rural buildings back into use” as it could possibly imply that only new space created through converting existing buildings will be permitted. National policy is clear that well designed new buildings should be supported in rural areas as set out in paragraph 83a) of the NPPF. I can see no objection to appropriately designed new buildings which support the rural economy, even within an area of outstanding natural beauty.

128. It is not possible to control where employees live and it will not be in achievable require the policy to reduce out commuting as these will be matters beyond the scope of planning control. I recommend that this part of the policy be removed.

Recommendations

In the first paragraph, replace “LNDP” with “development plan”

In the first bullet, delete “additional”

At the start of the second point, insert “in the case of new buildings”

Delete the final bullet point

Policy B2 – Tourism, Hospitality and Retail

129. There are elements of the policy which support the need for an applicant to “demonstrate a commitment to sustainable travel, advanced environmental stewardship and good site management”. Whilst this maybe very laudable aims, it should not be a criterion for assessing the acceptability of a planning application for tourist related development.

Recommendation

After the second paragraph, delete the final bullet point

The Referendum Area

130. 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 area of the Lamberhurst Neighbourhood Plan as designated by Tunbridge Wells Borough Council on 18th December 2017 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

131. I congratulate Lamberhurst Parish Council on producing this locally distinctive neighbourhood plan.
132. I know that there may be some disappointment at some of my proposed changes but it is important that policies are evidence based and justified.
133. It is clear that much work has gone into this plan by volunteers on behalf of the local community and the work does them great credit.
134. 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.
135. I am therefore delighted to recommend to Tunbridge Wells Borough Council that the Lamberhurst Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

7th May 2021