

Examination of Ashford Local Plan 2030

Inspectors Issue 16

Representations on behalf of various Parish Councils and the Rural Means Rural Group for a “Landscape Protection Policy”

- 1.1.1 Further to the representations made by us in August 2017 on behalf of Ruckinge, Shadoxhurst and Brook Parish Councils, and a large group of individuals from villages across the Borough, other parish councils have now declared support for the Landscape Protection Policy. Meanwhile the individuals who had expressed support have formed themselves into the Rural Means Rural Group (“RMR Group”).
- 1.1.2 This means that these representations follow on from the earlier letters and representations submitted as part of the Local Plan consultation process, and are made on behalf of the following:
- The Parish Councils (“PC’s”) responsible for the following villages:
Aldington, Bonnington, Brook, Upper Ruckinge, Lower Ruckinge, Orlestone, Hamstreet, Warehorne, Boughton Aluph, Eastwell
 - In addition, the following villages have expressed interest in the Policy, but have not provided written confirmation:
Hastingleigh, Charing, Brabourne, Smeeth, Bilsington, Mersham, Sandyhurst Lane, Shadoxhurst
 - The membership of the RMR Group stands at around 1,150 at the time of writing, and includes residents of the following villages:
Aldington, Bonnington, Brook, Upper Ruckinge, Lower Ruckinge, Orlestone, Hamstreet, Warehorne, Chilham, Nacolts, Stelling Minnis, Woodchurch, Shadoxhurst, Kingsnorth, South Willesborough
- 1.1.3 For ease of reference, the collective group represented by this submission is referred to in this note as “the PC’s and RMR members”.

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- 1.1.4 In the representations submitted by us on 30th August 2017 we suggested that a further policy should be added to ENV3 – potentially to be ENV3c, that would provide additional support for cumulative assessment in respect of proposed development in and around the villages of the Borough. We set out the wording of a proposed Landscape Protection Policy (LPP) there as follows:

Proposals for land use changes and development in the rural areas outside of the AONB will only be permitted provided that all of the following criteria are met:

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- a) *The land use change or development respects the landscape setting of the area and can be demonstrated to be in keeping with the form and style of existing development as a sensitive transition between the High Weald and North Downs AONB areas. Particular emphasis will be placed on the visual effects of development in the context of views into and out of the site, and the historic disposition of development relative to the surrounding topography.*
 - b) *The land use change or development respects the historic and archaeological reference points and sites of biodiversity value, and in particular, can demonstrate that it will not exacerbate current impacts to the character and function of existing highway corridors and lanes, and the street amenity in villages and other settlements areas.*
 - c) *The development will have no impact on the pursuance of rural activities on the adjacent lanes and highways that may be considered sensitive to development impacts;*
 - d) *It can be demonstrated that the development will not on its own or cumulatively as a result of other previously implemented, permitted, committed or planned schemes within or adjacent to the policy area generate a type or amount of traffic that would be inappropriate or detrimental to the rural road network that serves it; and*
 - e) *There would be no impact either individually or cumulatively as a result of other previously implemented, permitted, committed or planned schemes within or adjacent to the policy area on the character of or important features within the area including the rural lanes, verges and hedgerows which cross the area*
- 1.1.5 The PC's and RMR Group members all consider that the purely topic and locational based policies in the Local Plan do not always provide the opportunity for the cumulative impact of development proposals to be considered fully.
- 1.1.6 The Council's opening statement to the EiP recognises this situation, we believe, with the statement that "...there needs to be a **balance** between the drive for new development and ensuring that **important elements** that **contribute towards the wider character** of the borough and the **individual settlements** and **countryside** within it are suitably **protected**" (Our emphasis).
- 1.1.7 We are conscious that, as there are no Inspectors questions related to policy ENV1a, but only ENV1c which relates to the AONB. However, we would contend, and it seems that the Council agrees, that there are rural parts of the borough, with existing patterns of development, that are not subject to other statutory protections, but which are nevertheless valuable in their own right.
- 1.1.8 The Council's officers have advised that some of the proposed wording suggested for the LPP policies is included in the topic based policies, and we have identified this. However, we consider that this fails to tackle the way that cumulative impacts are affecting the amenity and environment in the rural parts of the Borough. Therefore, it is important that these can be addressed in development control decisions in the future.
- 1.1.9 There are two strands to this:
1. The cumulative effect of many small-scale developments across the rural areas – at present they are all treated individually on their own merits and so the sequential diminution of amenity is not considered, and



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2. The cumulative effect of numerous small impacts from one development - a bit more traffic, a bit more loss of green space, a bit more extra noise, that all add up to result in a diminution overall of the quality of the rural environment.

1.1.10 It may well be the case that many locations across the borough are under threat because they have no special designation and may therefore be considered available for development. If this is the case, then that is all the more reason to seek to adopt policies that, whilst not precluding development, set tests that are appropriate to the assessment of the quality of the rural environment.

Policy ENV5

1.1.11 Where the Inspectors ask if policy ENV5 is justified in the selection of particular aspects of the rural environment, we would contend that part of the reason for this being potentially unclear is that the policy is not well positioned in respect of the objectives that it is trying to achieve. The LPP seeks to create a framework for proper assessment of these (and other) elements recognising the unique and intrinsic value of a particular location.

1.1.12 To express this more clearly, it may be helpful to understand how the LPP is expected to be applied. In a general sense, it is a policy that would apply to the rural areas of the Borough outside of the AONB designated areas. It could (and should, if adopted) be applied by developers in considering the suitability of their sites. In this respect, it would require them to consider how their proposals fitted into the historic disposition of development, rather than simply promoting land that was available for acquisition.

1.1.13 Similarly, they would have to consider the effect on the rural lanes, and village streets, of their proposals and the way that their contribution to traffic or other impacts might affect the viability or amenity of sensitive rural activities. This might be, for example, that they should discover and take account of the fact that the access to their site sits on a popular or necessary equestrian route between bridleways. These are facts that are difficult to discern from simple traffic surveys, and require a deeper level of research to be undertaken.

1.1.14 We envisage that, in practice, parish councils or village communities would interact with the process, by gathering evidence in advance of the locations that they considered sensitive in their settlements, places where there were vulnerable users or buildings or features that were important to the “village memory”.

1.1.15 Examples of this may be the sensitivities around village primary school children walking along narrow footways or even in the road, or buildings that had significance in the village like old shops, or garages or schools, that are recognised by the residents.

1.1.16 It would be hoped that villages would compile this evidence to make it available to developers to inform their evaluation, but also to ensure that opportunities for mitigation of impacts that were particular and which might be overlooked by wider statutory authorities are captured. Often rural residents feel that developers can't or don't understand their particular environment and what is important in terms of making change acceptable in that location. The LLP is intended to provide a framework to allow that to happen.

1.1.17 We envisage that villages (through Parish Councils or otherwise) would share their information with the local community and the planning authority. This would mean that



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it was readily available to developers, who would then have a clear understanding and expression of the impacts that would be of concern to residents and respond to them accordingly. In villages that did not choose to do this, the LPP would still apply, but the local community would have lost the opportunity to provide information and clarification to underwrite the important elements of their settlement. We believe that, were it to be adopted, most villages would engage positively with compiling LPP related evidence and information.

- 1.1.18 We have been careful to emphasise in that context that the LPP is not an “anti-development” policy. The PC’s and RMR Group understand that such a policy would be against the objectives of the NPPF, the Council and the practical need for change and growth in the rural areas of the Borough. Instead it is intended to be a policy that allows development to occur in a way that responds to the things that are important in maintaining the quality and amenity of rural life.

The LPP and NPPF

- 1.1.19 The development of the LPP was undertaken in the context of the NPPF, but arising from a desire to establish a policy framework that would recognise the unique characteristics of the rural areas. It explores the extent to which Local Plan policies would provide a cumulative assessment base for development proposals, as opposed to the topic by topic approach that is typical.

- 1.1.20 Part of this is related to the way that rural buildings (agricultural buildings, in particular) are often used for other purposes – both with and without permission, and that these changes of use can have unintended consequences and create additional impacts. NPPF recognises that it may be appropriate for Local Authorities to control the way that buildings can change their use, at para 157 which includes a bullet that states:

157. Crucially, Local Plans should:

- identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation;

- 1.1.21 As the landscape around the villages has a particular quality, and the sequential and on-going changes to buildings and new development in the area has a cumulative effect, there is a need to ensure that the Local Plan provides a proper context for future development and planning decisions.

- 1.1.22 The issue of cumulative effects (in this respect, both the cumulative effects of different applications on each other, and the cumulative impacts that individual proposals have across a variety of topics) is explored in NPPF. Paragraph 120 of NPPF, states:

120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

- 1.1.23 This highlights that the cumulative effects of pollution through new development are a



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material consideration in terms of the impacts on general amenity. It seems clear that the need to consider impacts in a cumulative context is an important principle in NPPF, and that this is often neglected in the way that Local Plan policies are framed as topic based policies.

1.1.24 In pursuing the idea of an area specific landscape protection policy, we were cognisant of the guidance provided in the Ministerial Forward to the NPPF. This has a range of particular references to the rural environment:

“sustainable development is about change for the better”

“Our natural environment is essential to our well-being, and it can be better looked after than it has been”

“Habitats that have been degraded can be restored”

“Our historic environment – buildings, landscapes, towns and villages – can better be cherished if their spirit of place thrives, rather than withers.”

“Planning has tended to exclude, rather than include, people and communities”

1.1.25 It is hard to see how a series of topic based policies can respond properly to this aspiration. The ability for local people to register their interest in the proposals that may be brought forward around them is hampered by the need to understand, and then cross-reference policies to try to identify where cumulative impacts may occur. As an illustration – the change of use of agricultural buildings in the countryside to more commercial distribution uses may not give rise to large changes in traffic generation – and hence DMRB related highway capacity and safety criteria may be achieved, but the impacts of more, larger vehicles on the rural lanes has a dramatic effect on over-running of verges, and this impacts on local amenity (as cyclists and horse-riding become much less safe and pleasant) and on the biodiversity of the area as ecology is eroded.

1.1.26 Therefore, the LPP is intended to allow development to take place in the villages, but in the context that these types of gradual erosions of amenity are taken into account.

1.1.27 In this respect, the first paragraph of NPPF is helpful:

1. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities...

1.1.28 The LPP policy is aimed squarely at making the Ashford Local Plan distinctive, and reflecting the clearly stated, and evidenced, priorities of the local community and, we believe, the Council, in those places.

1.1.29 The LPP has not been developed to be “anti-development”, but is intended to establish a set of cumulative assessment criteria that can be applied in the rural villages. NPPF addresses this issue at para 15, and the LPP policy is intended to guide how the presumption should be applied:

15. Policies in Local Plans should follow the approach of the presumption in favour of sustainable development so that it is clear that development which is sustainable can be approved without delay. All plans should be based upon and reflect the presumption in favour of sustainable development, with clear policies that will guide how the presumption should be applied locally.

1.1.30 We believe that paragraph 17 also strongly supports this type of area specific approach:



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17. Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;

1.1.31 In seeking to empower local people to shape their surroundings it seems sensible to consider how the local community may want to express the way that they would like to see development control implemented. Local communities would value the clear direction of an LPP type policy in allowing them to judge proposals that may come forward against a holistic and cumulative policy basis. Such a policy would improve the level of engagement that the community could have with the plan, and help respondents to make better and more policy specific responses to proposals. All of which should make the local planning system more transparent and efficient.

1.1.32 Paragraph 28 of the NPPF deals with planning policies supporting economic growth in rural areas, and the LPP is not intended to cut across this aspiration or restrict it in any way. Rather the intention is that the LPP allows the balance to be struck between the economic benefits of a proposal and the wider impacts that it may have in a cumulative way. It would be unfortunate if a development was approved based on one economic benefit (say housing delivery), but the unintended consequence was to make the area as a whole less viable for, say, tourism based activities such that the economy as a whole did not grow.

1.1.33 Hence, the LPP provides a mechanism for such proposals to potentially still come forward, but perhaps with appropriate mitigation measures that specifically protect the amenity of the area for tourism based activities, and the overall growth of the rural economy can be secured.

1.1.34 NPPF recognises that Local Plans need to be robust, and that their policies should be comprehensive. This suggests that, if topic based policies are not providing a suitable level of protection to areas that policies should be re-framed accordingly. At para 58, it states:

58. Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics.

Planning policies and decisions should aim to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;



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- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

1.1.35 The reference in the initial paragraph to the stated objectives for an area and the local characteristics all underpin the principle of the LPP. The development of the LPP involved local communities in rural villages in the Borough to ensure that both the local community and the draft policy would specifically create objectives for the area based on the local characteristics that had been so clearly evident.

1.1.36 This approach is supported further by NPPF through the implications of para 66:

66. Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

1.1.37 The LPP establishes the views of the local community from the outset, and should therefore make it easier and more efficient for promoters of sites to develop appropriate and acceptable schemes, and to consider the likely mitigation that may be required to make them acceptable.

1.1.38 We note that the Government has produced a revised draft text of the NPPF for consultation in March 2018. This does not apply at present, but we do not believe that it will significantly change the principles of the current NPPF that are set out with regard to the LPP above.

Conclusions

1.1.39 The PC's and RMR Group does not want the draft Local Plan as proposed by the Council to be found unsound. We appreciate that elements of the LPP have been taken on board by the Council through the consultation process, and included in the draft plan. However, we would argue that the de-construction of the LPP as proposed into its constituent parts misses a golden opportunity to create a genuinely innovative and forward thinking policy for the rural parts of the Borough that would allow the development and growth that is vital for the rural economy, but in a way that manages and mitigates what are otherwise so often unintended and detrimental consequences.

1.1.40 We would therefore respectfully suggest that the inclusion of Policy ENV3c, as proposed at paragraph 1.1.2 above, would be a significant and positive enhancement of the Ashford Local Plan 2030.

