

Pembury Neighbourhood Plan 2020-2038

Submission Version

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

John Slater BA (Hons), DMS, MRTPI

John Slater Planning Ltd

johnslaterplanning@gmail.com

6th April 2023

Contents

	Page
Executive Summary	3
Introduction	4
The Examiner's Role	4
The Examination Process	5
The Consultation Process	6
Regulation 16 Consultation	7
The Basic Conditions	7
Compliance with the Development Plan	8
Compliance with European and Human Rights Legislation	10
The Neighbourhood Plan: An Overview	11
The Neighbourhood Plan Policies	12
The Referendum Area	22
Summary	22

Executive Summary

My examination has concluded that the Pembury 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 –

- Clarifying that the changes to limits of development to the south of the village will apply upon the adoption of the Tunbridge Wells Local Plan and also extending the uses appropriate in the Green Belt and AONB, to allow for infilling and redevelopment of previously developed land in the countryside.
- Setting out residential car parking requirements in the policy and clarifying that development abutting the countryside does not include those which back onto the A21.
- Deleting the requirement for developers to have to justify, on viability grounds, not meeting higher sustainable construction standards.
- Removing the need for drainage solutions to be only acceptable “after rigorous analysis”.
- Setting out in the policy which are to be treated as non-designated heritage assets and for the policy to differentiate the tests which are applied to designated and non-designated heritage assets.
- Removing the requirements related to the 10% minimum net biodiversity gain as these will be introduced through the implementation of the net biodiversity gain provisions within the Environment Act 2021.
- Setting out a single category of local green space in the parish.
- Enhancing the protection granted to ancient woodland and veteran trees.
- Clarifying that the policy is not necessarily to safeguard the key views but rather to ensure that there is a requirement to mitigate any adverse impact on the views through the design and masterplanning of developments.
- The policy regarding creating new cycle and other routes should apply to major residential development only.
- Removing the test for community facilities to have to meet, for planning purposes, the requirement that they be “fit for purpose” or meet Sports England specifications.

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 the opportunity to create the policies that will shape the places where they live and work. A neighbourhood plan provides the community with the ability 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, the Tunbridge Wells Core Strategy, adopted in June 2010 and the Site Allocations DPD adopted in 2016. 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 Pembury Parish Council. A Sub Committee was appointed to undertake the Plan's preparations made up of parish councillors and representatives of various working groups.
3. This report is the outcome of my examination of the Submission Version of the Pembury 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 2023, with the agreement of Pembury 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 44 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 Pembury 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 Pembury 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 Town and Country Planning Act 1990 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 Pembury Neighbourhood Plan, on 14th July 2020.
 10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2020 up to 2038 which coincides with the end date of the emerging version of the Tunbridge Wells Borough Local Plan.
 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 Pembury 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 examination will proceed by way of the consideration 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 to give a person 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 Pembury on 21st February 2023. Upon arrival, I travelled from Tesco's along the High Street and Hastings Road where I noted the location of the local plan allocation sites to the south of the village, up to the A21. I spent approximately two and half hours in Pembury, exploring the village, both in my car and on foot, visiting each of the local green spaces and most of the viewpoints and the proposed non-designated heritage assets. I also explored the lanes outside of the village including taking in the small settlements of Romford and Hawkwell, where I saw the old parish church. I finished my visit via the northern bypass, then taking in the major hospital on Tonbridge Road before returning to the A21.
18. Following my site visit, 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 23rd February 2023. I received responses from Tunbridge Wells Borough Council on 8th March and from the Parish Council on 10th March 2023. The responses have been placed on the respective websites.

The Consultation Process

19. Once the Parish Council had decided to prepare a neighbourhood plan, a Steering Group was formed in February 2020. Following the neighbourhood plan area being formally designated, a virtual workshop was held and four themes for the neighbourhood plan were identified, namely 1) Heritage, Design, Character and Housing, 2) Environment and Green Spaces, 3) Transport and Movement and 4) Community Facilities, Employment and Local Economy. This led to the preparation of the first Community Survey, which was intended to be a high-level view, extracting comments from the community about what people liked about Pembury and what could be improved.
20. In parallel to the Community Survey, a business survey was also circulated, which produced 21 responses. Additionally a photography competition was used to identify residents' favourite views, green spaces and important buildings.
21. The work of the four groups was publicised via the neighbourhood plan website, its Facebook page, articles in the Pembury Village News and by a mailing list. At the same time, meetings took place with key stakeholders.
22. The next stage involved developing the Vision and Objectives and planning policies. An online visioning event was attended by 80 people in April 2021, with discussion groups considering different elements, including adopting a SWOT analysis. This led to the setting of the plan's vision accompanied by eight objectives.
23. A second Community Survey was launched in July 2021 which generated 160 responses. In addition, the four working groups carried out further consultations and research, commissioning a local housing needs assessment and

establishing a local wildlife group which identified potential local green spaces. All this work led to a Policy Options Workshop being held on 17th October 2021, attended by 21 people. The Steering Group also held discussions with outside bodies, including with the Pembury Society and the Borough Council.

24. This activity culminated with the preparation of the Pre-Submission version of the Neighbourhood Plan which was the subject of a six - week consultation, known as the Regulation 14 consultation, which ran from 5th June to 18th July 2022. This was advertised in a variety of ways including through the Steering Group's attendance at the Platinum Jubilee celebrations and a drop-in event and exhibition was held at the Baptist Church on 16th June 2022. A total of 16 responses were received. These are fully set out in Appendix B of the Consultation Statement.
25. 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, despite the restrictions necessary, as much of the work was carried out during the Covid pandemic.

Regulation 16 Consultation

26. 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 eight- week period, between 5th December 2022 and 30th January 2023. 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.
27. In total, 27 responses were received, including: Brenchley and Matfield Parish Council, Southern Water, Kent County Council, Tunbridge Wells Borough Council, National Highways, Historic England, Environment Agency, Natural England, British Horse Society, A21 Rat Run Group, MRPP on behalf of Tesco, Stantec on behalf of Obsidian Strategic Management, Countryside Partnership, Graham Land and Development, South East Coast Ambulance Service NHS Foundation Trust and from 12 local residents (including one late representation, which nevertheless I have considered).
28. 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

29. 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.
30. 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

31. The development plan currently comprises the saved policies of the 2006 Local Plan and the 2010 Core Strategy. In addition it also includes a Borough Site Allocations Plan which was adopted in 2016. This includes two allocations within the parish, Policy AL/VRA 2, Park and Ride Facilities at Woodsgate Corner, adjacent to Tesco and Policy AL/VRA 3 – Recreation Open Space to south of Sandhurst Avenue and east of Woodside Road for sports pitches and recreation. 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 cannot be covered by a neighbourhood plan policy.
32. 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 current limits to development around the main village of Pembury and the land outside as Green Belt.
33. 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 which 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 provide/contribute to "services, facilities and infrastructure for which they create a need". Core Policy 2 deals with the Green Belt. Core Policy 4 – Environment, seeks to conserve and enhance the High Weald AONB, adopts a hierarchical approach to the protection of nature conservation as well as protecting various heritage interests.
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 sites capable of accommodating 10 units or more. It allows for the consideration of exception sites. The loss of community facilities is resisted in Core Policy 8.

35. Importantly, Core Policy 14 deals with Development in the Villages and Rural Areas. Pembury 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.
36. The Site Allocations Plan, as well as making the two site allocations in Pembury parish, notes that the 360-unit housing requirement from the villages referred to in the previous paragraph, had been already provided but local needs housing and affordable housing would continue to be supported.
37. The Borough Council is preparing a new Tunbridge Wells Borough Local Plan which has been submitted to the Planning Inspectorate and has been through its first set of examination hearings, which were held between March and July 2022. Following the hearings, the Inspector requested additional notes and documentation from the Borough Council. The Borough Council has now received the Local Plan Inspector's Initial Findings and it has responded to the Inspector in a letter dated 17th February 2023, setting out the additional work that is to be carried out by the Borough Council and its team of consultants, which will inform the preparation of Suggested Changes to the Local Plan, which is expected to be considered by Members this summer, with a view to further Focussed Examination sessions being held in November 2023. The only finding which specifically applies to the parish of Pembury, relates to the de coupling of the extension to the hospice site and the adjacent residential allocation, at Downingbury Farm (Policy AL/PE4). His findings do not affect my examination.
38. The status of this plan is that it is still a draft local plan, which is now some way down its road towards adoption, but the policies within it can still change as a result of the publication of the Inspector's final report and findings, as well as future consultations on any proposed modifications. As a document, it is very material to my consideration of the neighbourhood plan and it is clear that the Parish Council has worked closely with the Borough planners and have taken on board the proposals in the emerging plan, as it represents a clear direction of travel and is based on up-to-date research and evidence. However, for the consideration of the basic conditions, the legislation requires that the neighbourhood plan should be in general conformity with the strategic policies in the adopted local plan(s).
39. The submission version of the new Tunbridge Wells Borough Local Plan covers the period 2020 – 2038, which is the same as this neighbourhood plan. The plan proposes that it will deliver a minimum of 12,204 dwellings, including using previously developed land and focussing development within the limits to development of settlements, at the same time as limiting development within the High Weald AONB. The Borough Council's consideration of the Inspector's Initial Findings may mean that some of the strategy for meeting housing need may have to be reconsidered, in the light of some of his published conclusions.

40. The plan has a separate section on Pembury and the overarching “The Strategy for Pembury” is set out in Policy PSTR/PE1 and is proposing a new limit to built development map for the village (Map 29) which includes 5 housing allocation sites, which are expected to deliver between approximately 389 and 417 new dwellings. These sites are AL/PE 1, land rear of High Street and west of Chalket Lane for a mixed scheme comprising 50 – 60 homes, plus additional parking for the adjacent village hall and the public, AL/ PE 2 is land at Hubbles Farm and south of Hastings Road, which the submission plan states will deliver approximately 80 dwellings and includes safeguarded land for the future expansion of the adjacent Cemetery. Policy AL/ PE3 is another site, north of the A21, south and west of Hastings Road which again will deliver approximately 80 homes. Policy AL/ PE 4 is a mixed-use allocation at Downingbury Farm which is intended to provide 25 dwellings, and proposes safeguarding land to enable the adjacent hospice to expand in the future. The final housing site is AL/PE5 land at Sturgeons fronting Henwood Green Road where the development of 19 houses was close to completion at the time of my site visit.
41. There are 3 other allocations in the parish, AL/ PE6 is for a site at Woodsgate Corner which will provide for either extra care accommodation or a care/ nursing home adjacent to the Tesco car park and AL/ PE 7 land at Cornford Court for a community day centre and health care facility. The final allocation is covered by Policy AL/ PE 8 at Owlsnest on Tonbridge Road which is allocated for a 76-bed care home.
42. The new plan also contains a compendium of new development management policies covering a wide range of policy issues.
43. 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

44. Tunbridge Wells Borough Council issued a Screening Opinion, in a report dated April 2022, 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.
45. The Borough Council, as competent authority, in a screening report also dated April 2022, 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 a European protected site, the nearest of which is the Ashdown Forest SPA / SAC.
46. 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

47. The submission of the neighbourhood plan marks a major milestone in the development of the Pembury Neighbourhood Plan and I must acknowledge the hard work by the Steering Committee. It is clear that the neighbourhood plan is a plan that reflects the issues of importance to residents and provides locally distinctive policies, covering such issues as the role of twittens in the village, local green space, the designation of non-designated heritage assets and identifying important views across the parish. It is specifying the types of housing that the local housing needs assessment has identified as being needed in the village.
48. I particularly want to commend the Pembury Design Guidance and Code which provides design guidance based on a clear appraisal of the local context and the characteristics of the village and its architectural styles.
49. The plan has been prepared alongside the emerging Tunbridge Wells Local Plan and that latter document has been the main driver for the strategic decisions about how much development should take place within the village and indeed the Borough Council has taken the lead in identifying the allocation sites. The Parish Council is relying on those allocations to deliver the housing needs of the parish and it is not proposing to allocate any further land. In a number of instances, residents have submitted Regulation 16 representations opposing the new local plan's housing allocations, especially those to the south of the village, but my view is that these are beyond the scope of the neighbourhood plan and its examination. Similarly the constraints imposed by the Green Belt and the Area of Outstanding Natural Beauty provide the backdrop for planning policy in those parts of the parish beyond the extended limits of development of Pembury Village.
50. In a couple of instances, the policies require compliance with new local plan policies, but because the new plan is not finalised, that local plan policy could still change and it would be inappropriate to enshrine in a development plan document, policies which are currently only draft. I propose a number of amendments to address that matter. Equally it is unnecessary for individual policies to set as criteria the need for compliance with another policy in the neighbourhood plan. All policies have the potential to be relevant to the determination of any particular planning application and so it is unnecessary duplication, contrary to advice set out in the NPPF (Para 16 f).
51. The plan rightly differentiates between matters that can be used to determine planning applications and what are described as "non policy actions", which are projects the Parish Council intends to undertake, but which are beyond the remit of a land-use policy. These projects are not subject to examination or referendum and I have not commented on them. A number of these relate to

issues upon which Regulation 16 comments have been made regarding rat running.

52. One of the basic condition tests is whether the neighbourhood plan will deliver “sustainable development”. On this point I am satisfied that the plan, when read as a whole, will deliver that sustainable development. The plan seeks to ensure that new housing types meets the housing requirements of the village, adds heritage assets, protects those local green spaces that are valued by the residents as well as key views. The policy also seeks to enhance economic activity and has an innovative policy encouraging and extending the concept of working from home.
53. The Borough Council has, in its submissions, raised a whole range of textual issues which are not directly related to the actual policies in the plan. I am afraid this goes beyond my remit as an examiner, to have to address such issues as I am required only to deal with the matters set out in legislation which are predominantly basic conditions issues. That is not to say the points being raised are unimportant and offer the opportunity to improve the final version of the plan.
54. I will be therefore leaving it to the Parish Council/ Steering Group to work alongside the Borough Council planners to address these issues, in collating the Referendum Version of the plan, which will have to be prepared alongside the Borough Council’s Decision Statement. There will also be consequential changes to the supporting text which are necessary to reflect the policy changes that I am recommending in my report, so that the neighbourhood plan will read as a coherent document.

The Neighbourhood Development Plan

Policies

Policy P1: Location of Development

55. I consider that it is eminently sensible for the neighbourhood plan to extend the current limits of development to accommodate the housing allocations being made in the draft Local Plan. However as the local plan has not been yet adopted, then there could be an issue, in terms of meeting the basic conditions, especially relating to general compliance with the adopted policies in the adopted local plan (2006) where the land to the south of the village is shown as Green Belt. It is to be through Policy PSTR/ PE 1 that the limits of built development will be changed. I therefore propose to clarify in the policy that the area defined by the solid black line in Figure 4.2 constitutes the current limits of development and that the area shown within the dotted black line will be deemed to be included with the limits of built development upon the adoption of the Tunbridge Wells Local Plan. That would then remove the need to allow the inclusion of sites in the countryside which are allocated in the Local Plan, as these will now be covered by policy criteria A).

56. The policy supports the development of brownfield land within the limits of built development, but national policy as set out in paragraph 149 of the NPPF would also allow for limited infilling or the redevelopment of previously developed land within the Green Belt, so long as the development does not have a greater impact on the openness of the Green Belt than the existing buildings on the site and also meets the criteria set out in paragraph 177 of the NPPF. I will propose the inclusion of that category of development within the list of those which are deemed acceptable, outside the limits of development, so that it fully reflects Secretary of State policy. I have therefore inserted a replacement criterion iv, to allow for limited or redevelopment including partial redevelopment of previously developed sites in the Green Belt so long as it meets the criteria set out in paragraph 149 g) of the NPPF.
57. I agree with the Borough Council's comments that the policy will only be workable if the options in i) to v) are alternatives, so I will recommend the inclusion of "or" at the end of each of the sections.
58. I do consider that the requirement in v) which makes reference to putting the historic buildings back into "optimal" use, is somewhat ambiguous as it does not define from what basis the "optimal use" is to be considered, is it from the applicant's financial perspectives or in terms of the conserving the significance of the historic buildings? I will suggest its replacement with "viable use consistent with their conservation".
59. Beyond the above I consider the policy meets the basic conditions.

Recommendations

In A. after "Limits of Built Development" insert "within the solid black line as shown on the map in Figure 4.1, but upon the adoption of the Tunbridge Wells Local Plan the boundary should then include the areas within the black dotted line" and delete "as defined in Figure 4.1".

Replace B (iv) with "it relates to limited infilling or the partial or complete redevelopment of previously developed land so long as it meets the criteria set out in paragraphs 149 (g) and 177 of the NPPF."

In v) after "farm buildings" insert "into use" and replace "optimal use" with "viable use consistent with their conservation".

Insert "or" at the end of (i) to (iv).

Policy P2: Meeting Local Housing Needs

60. The Secretary of State's policy, as set out in paragraph 62 of the NPPF, is that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies and I believe that this policy is aimed at addressing the specific needs of Pembury, as set out in the Pembury Housing Report – December 2021. I commend that report for its clarity.
61. I have considered the representations from the land owners particularly in favour of the continued need to build larger properties for families to up-size into, but I consider that the policy is saying specifically what mix of houses will be supported, which still allows a developer to be able to make a specific case as to

why a higher mix of larger properties should be considered. However the evidence is that the village has higher than average numbers of 4-bedroom houses than the rest of the Tunbridge Wells borough and the south east and I do not intend to recommend a different mix.

62. I am satisfied that the policy is defensible, as it has been based on the specifics of the parish and has been supported by appropriate and proportionate evidence and I conclude that it meets the basic conditions.

Policy P3: Character of Development

63. This is a comprehensive policy which covers a wide range of issues There are some matters of drafting in A), which I believe, if addressed, could improve the clarity of the policy.
64. I can understand why the term “hotch potch” of architectural styles has been adopted, however that term could be perceived differently by some decision makers, possibly some may see it as a derogatory term, which would not be justified from what I observed on my visit to Pembury. I consider that the aspiration of the drafting can be achieved by referring to the “variety of architectural styles found locally”.
65. The sentence in A) “: *This will help to avoid building design inappropriate to the neighbourhood plan area*” is not actually a statement of policy, but the reason why the policy is being imposed. If it needs to be retained, it could be moved to the supporting text.
66. The detailed requirements, as set out in B) are suitably caveated to apply only to developments where the requirement is relevant. However, there is no need for the policy to require compliance with another policy in the plan, as that other policy will already apply to all development taking place within the plan area e.g. Policy 11: Protection of locally significant views.
67. Criteria B iv) also unnecessarily references another policy, namely P12, and I will recommend that this part is deleted, again as unnecessary duplication. The policy goes on to require parking to be in accordance with the parking standards as set out in a Borough Council produced Topic Paper, which is part of the evidence base of the emerging Local Plan. Similarly the policy cites Policy TP3 of the draft Local Plan, but that policy has not been adopted. This has been pointed out by the Borough Council in its comments at Regulation 16.
68. I therefore conclude that the best way the parking requirements can be put into the development plan, is to allow this neighbourhood plan policy to be explicit, by setting the residential parking standards it is expecting to be applied to development in Pembury. I will base them on the proposed Tunbridge Wells standards, as their appropriateness does not seem to have been challenged by the Inspector’s published comments.
69. Developer concerns has been expressed about the implications of the requirement set out in C), namely that development on the edge of a residential site, where it meets open countryside, should be of a lower density, would not be justified, and would be unwarranted, in the circumstances where the site is abutted by the major highway – the A21. Whether this road can be considered

as open countryside is a matter of debate, but I will propose a minor modification that specifically excludes sites which abut the A21.

Recommendations

In A. replace ““Hotch-potch” of architectural variety found locally” with “variety of architectural styles found locally.”

Delete the penultimate sentence in A.

In (iv) delete the text up to “P12” and all text after “in accordance with” and insert “the following minimum parking requirements:

1 bed units 1 space

2 bed units 1.5 spaces

3 bed and above 2 spaces

Plus 0.2 additional visitor parking spaces per unit “

Delete (v)

In (vi) delete “in accordance with P6”

In C. after “rural boundary edge” insert “(which does not include development that backs directly on to the A21)”

Policy P4: Energy Efficiency and Design

70. In a Written Statement to the House of Commons on 25th March 2015, the Secretary of State stated explicitly that “neighbourhood plans should not set additional local requirements or technical standard’s relating to the construction, internal layout or performance of new dwellings.” The neighbourhood plan has not sought, as some neighbourhood plans have tried to do, to place its own requirements aimed at achieving higher standards of sustainable construction, than required by the Building Regulation or as set in Local Plans.
71. It does this by saying that schemes which address the points set out in the policy, *will be supported*. However, unfortunately, it does require the developer to justify why the requirements cannot be reached. That is, in my mind, over onerous and unjustified and would be contrary to the intentions set out in the Secretary of State’s statement, especially due to the fact that the policy is only offering support, rather than imposing a requirement on development. The Parish Council has indicated that it would support the removal of that element of that part of the policy.
72. It is now unnecessary for planning policy to require the installation of electric vehicle charging infrastructure on individual dwellings, as this is a recently introduced requirement imposed by Part S of the Building Regulations.

Recommendation

Delete (vii) and the following paragraph.

Policy P5: Sewerage and Drainage Infrastructure

73. This is a comprehensive policy covering drainage matters and I do not have any concerns with the outcomes being sought in the policy. However there is a requirement imposed in B) that schemes will not be supported unless it is shown. through “*rigorous analysis*”, that there is sufficient capacity in the system. The policy is silent as to who would carry out that “*rigorous assessment*”. I raised the question with the Parish Council, as to who it anticipated would undertake that

assessment. It responded by saying that it would be Southern Water, who would, in any event, be considered by the Local Planning Authority to be the appropriate body to assess the capacity of its system to accommodate the proposed development or identify what works are required to provide that extra capacity. Such matters are covered by separate legislation. Southern Water are consultees on planning applications and plan making and developers will often consult with them, at pre application stage. I feel that the inclusion of “after rigorous analysis” is unnecessary as the planning system will always be based on proposals being assessed on an objective basis. For example, it is not a neighbourhood plan requirement that the impact of development on highway safety is only determined by the Highway Authority after “rigorous assessment”.

74. Beyond this matter, I consider that the policy meets the basic conditions.

Recommendation

In B, delete “it can be shown by rigorous analysis that”

Policy P6: Conserving heritage assets

75. The policy has identified 14 non-designated heritage assets, by reference to a paragraph in the supporting text. I consider that the intention would be clearer if the assets are listed, in the policy rather than the supporting text, on the basis that it is the policy that confers the heritage status.
76. The policy, as submitted, also confers the same status on assets that are identified in the Kent Heritage Environment Record. However I have concluded that it would be unreasonable for users of the plan to have to interrogate that database to try to ascertain whether a subject policy is deemed to be considered a non-designated heritage asset. The Parish Council has subsequently confirmed that it is happy for the policy just to refer to the 14 assets being nominated through the policy.
77. The requirements set out in B) impose the same test on proposals affecting designated and non-designated heritage assets, namely that they both are expected to conserve and enhance the significance of the assets and their setting where it contributes to their significance. The NPPF sets the Secretary of State’s aspiration for decision makers, when considering potential impacts of development on heritage assets, and he sets out a different test for proposals that affect non - designated heritage assets compared to designated assets. The test, in terms of non-designated assets is set out in paragraph 203 of the Framework, the implications of which are that proposals are not expected to conserve or enhance the significance of the asset, but rather that there should be a balanced judgement, having regard to the scale of any harm or loss with the significance of the heritage asset. That distinction reflects the lower status which are accorded to non-designated heritage assets, which are not subject to the statutory tests that affect listed buildings. I consider that the aspirations of the policy, in respect of designated heritage assets are justified and can be retained. My recommendations will focus on the non-designated heritage assets and my recommendations will concentrate on how potential impacts resulting from

planning proposals will be assessed, will reflect the tests set out in the in paragraph 203 of the Framework.

78. The requirement to provide a Heritage Statement with any planning application, is not something that is within the gift of a neighbourhood plan policy, as the documents which are required to be submitted with a planning application are set out in the Local Validation Checklist as provided by the Town and Country Planning (Development Management Procedures) Order 2015. This list is issued by the Borough Council and covers the whole of the district.
79. The requirements as set out in C), could require any building work in the parish, it could be argued, to have to investigate whether the works are likely to have a potential impact on above and below ground archaeological deposits. That would be an unreasonable requirement for most locations, but is a legitimate request in those parts of the parish where there is evidence of the possibility of archaeological remains. This is a matter that is more appropriately dealt with through the local validation checklist produced by the Borough Council which holds maps and information and which identify the areas where a Heritage Statement or a desk based archaeological assessment is required to accompany a planning application. I will therefore recommend that this part of the policy be deleted.

Recommendations

Replace paragraph A. with “The following buildings and structures as shown on Figure 6.2 are designated as non- designated heritage assets

- ***The Horse Trough on the Green***
- ***Gimble Grove, Gimble Way***
- ***Postillions, Hastings Road***
- ***30 Hastings Road***
- ***Hawkwell Cottages, Maidstone Road***
- ***The Oast, 36 Henwood Green Road***
- ***Lavender Cottage, 50 Henwood Road***
- ***Wayland House, 20 High Street***
- ***The Cottage, 70 Henwood Green Road***
- ***Pembury Hall, Pembury Hall Road***
- ***138, 140 and 142 Henwood Green Road***
- ***The Waterworks, Old Church Road***
- ***York House/ “Amberleaze”, Lower Green Road/Hastings Road***
- ***Sunhill Place, High Street”***

In B. after “Development proposals affecting” insert “designated” and delete

“– including non- designated heritage assets”

and replace the last sentence of that paragraph with “Proposals affecting non designated heritage assets will be assessed having regard to the scale of any harm or loss against the significance of the heritage asset.

Delete C.

At the end of D. insert “consistent with their conservation.”

Policy P7: Supporting Flexible Workspaces and Opportunities for Home Working

80. This is an imaginative, locally distinctive policy which seeks to encourage new flexible workspaces and home working. I sought to clarify the extent of the ambitions of the policy as it relates to home working, particularly whether it is restricted to facilitating just the home working requirements of the occupier or could it enable other employees to be based at the property, which could have implications, both in terms of the impact of the activity on the neighbourhood and possibly also could be key to the need for planning permission.
81. The Parish Council confirmed that its intention was to allow non-residents to be employed from the domestic premises, albeit subject to the activity meeting the limitations set out in the final paragraph of the policy. Such a policy does give encouragement to economic activity within the parish whilst incorporating controls to prevent activities having a detrimental impact on the amenity of the locality. This policy only applies where the scale of activity is such that there is a need for planning permission, as much working from home can take place without planning consent being required, as is the case with this Examiner!
82. I am satisfied that the policy meets basic conditions.

Policy P8: Green and Blue Infrastructure and Delivering Biodiversity Net Gain

83. The policy in A) requires, by implication, *all* proposals to have to create, conserve, enhance and manage green spaces and connect chains of green infrastructure. These requirements only need to apply to some types of development that will be taking place within the parish such as significant new residential developments and it would be an irrelevant consideration for many planning applications. Nevertheless, where it is relevant, the policy will help deliver sustainable development, not least in terms of enhancing public health and biodiversity. I therefore will recommend that the requirements will only be triggered where it is relevant to the type of development under consideration.
84. Another issue with the policy, is the extent to which the policy requirements overlap with the new statutory requirements that are being introduced as a consequence of the Environment Act 2021, whose provisions, requiring the delivery of a 10% minimum net biodiversity gain, will be introduced for larger schemes in November 2023 and for smaller development next April. In my view, the new legal provisions will override any neighbourhood plan policy requirements and it is unnecessary and indeed over onerous to duplicate the requirements imposed on applicants, through having to separately demonstrate how the required minimum 10% net biodiversity improvements will be calculated and delivered, whether it is on site, off site or through purchasing biodiversity credits.
85. I therefore propose to remove the specific requirements within the policy which are effectively going to be covered by the statutory scheme and specifically the reference to the minimum 10% net gain. I also consider the requirements in C)

relating to need to agree the measures with the LPA and its funding and the management of habitats created etc, will all be enshrined in the new obligations which are have been imposed when the provisions in the Environment Act are enacted later this year.

86. Nevertheless, the aspirations set out in the plan to address biodiversity net gain and the need to protect and enhance wildlife areas and corridor/ stepping stones are all consistent with the paragraphs 174 d), 175, 179 and 180 of the NPPF.

Recommendations

At the start of A. insert “Where it is appropriate to the type of development being considered”, delete “(where net gain involves a post development net gain of 10%)” In the final sentence, delete “for development must be supported by a biodiversity appraisal which” Delete C.

Policy P9: Local Green Spaces

87. The plan acknowledges that the new draft Local Plan proposes to designate 7 local green spaces and the neighbourhood plan seeks to identify an additional 7. As it is likely that the neighbourhood plan, if approved at referendum, will be made before the Tunbridge Wells Local Plan is adopted, it could leave the local plan proposed designations unprotected by this policy for a period of time. There is no reason why this plan cannot designate all 14 sites as local green spaces. In that respect, I am satisfied that all the proposed local green spaces meet the requirements, as set out in paragraph 102 of the NPPF, notwithstanding the reservations of the Borough Council, in respect of some of the sites being proposed by the Parish Council.

Recommendation

Replace the first paragraph with “The following green spaces are designated as local green space as shown in Figure 8.3:

- ***Pembury Allotments***
- ***Open space at Beagles Wood Road***
- ***Pembury Cricket Ground***
- ***Woodside Recreation Ground***
- ***Lower Green Recreation Ground***
- ***Belfield Road open space***
- ***Lower Green Burial Ground***
- ***Pembury Burial Ground***
- ***Green space adjacent to 33 and 37 Ridgeway***
- ***Old Church Burial ground***
- ***Bo Peep Corner***
- ***Church lawn***
- ***War Memorial Lawn***
- ***Downingbury Pond***

Policy P10: Managing the Environmental Impact of Development

88. My only concern with this policy, is that the Secretary of State test for schemes that involve the loss of irreplaceable habitats, which the NPPF includes ancient woodland and ancient or veteran trees, is that proposals should only be approved in exceptional circumstances. I believe the policy should be more closely aligned with the Secretary of State's view as to the weight to be ascribed to their retention. I will propose an appropriate modification.
89. I have considered the representations made on this policy, particularly the point that the requirement that open spaces should not be fragmented would lead to one large area of open space. On this occasion, I will accept the suggestion made by Countryside Partnership that the wording "and not be fragmented" should be removed, as the masterplanning of larger schemes could benefit from smaller but equally well located, usable areas of open space.
90. In response to the representations made regarding the fact that open space should not be severed by any physical barrier, the concern would be that it could preclude open space being located, say, either side of a hedgerow, which would act as a physical barrier. The Parish Council has indicated that it would be prepared to insert that "natural barriers would be preferred where it is necessary for the space" and also that accessibility to the public should be caveated "where appropriate". I am content to make these modifications.

Recommendations

In B.(i) replace "If veteran or notable trees must be removed" with "ancient woodland and ancient or veteran trees must not be removed except in exceptional circumstances and in that case"

In (vii) delete "and not be fragmented"

In (viii) replace "natural barriers would be preferred, where it is necessary for the space."

In (ix) insert at the start, "where appropriate"

Policy P11: Protection of Locally Significant Views

91. I am satisfied that the local community is entitled to identify what it considers are the most important view points within the parish. The issue that has arisen in the representations is whether the requirements that the development proposals should safeguard these views, with particular reference to the viewpoints V2 and V3, where the arc covers land which are proposed as strategic allocations in the emerging Local Plan. The descriptions of the views, as set out In Appendix E, seem to acknowledge that, in these cases, the view cannot be protected in an unaltered state. My opinion is that the masterplanning of these sites should acknowledge and take into consideration, the importance of the views and it should be a constraint that influences how the site is to be developed, without affecting the principle that the sites should be residentially developed. I will propose specific modifications to ensure that the policy should not affect the delivery of these sites, but that the consideration of the effect of development on these views at least the views should be acknowledged but the impact should at least be mitigated and accounted for in the site layouts.

92. As previously mentioned, a policy cannot require the submission of a specific document or appraisal but the purpose will be achieved by my suggested amendment to the first paragraph.

Recommendations

Replace “in paragraph 8.33 and” with “as shown” and replace “safeguards the locally significant view or views concerned” with “demonstrates how it has taken into consideration the importance of the locally significant view or views, in the layout, design or masterplanning of the site(s) and mitigates any adverse impact on those views.”
Delete the second paragraph.

Policy P12: Dark Skies

93. The policy refers to compliance with a draft local plan policy, which as has already been mentioned, is some way away from adoption. I will propose that the inclusion of that reference is unnecessary, as that policy may possibly change. Beyond that modification, I have no comments to make on this policy which accords with national policy set out in paragraph 185 c) of the NPPF.

Recommendation

Delete “in accordance with TWBC Local Plan policy EN8 or its successor policy,

Policy P13: Improving Walking, Cycling and Equestrian Opportunities

94. The scope of this policy, as submitted, covers again *all* development, which would be inappropriate for many types of development taking place in the parish. Nevertheless, its aspirations will help deliver sustainable development by providing the infrastructure that would allow access to key facilities without recourse to having to make car journeys. My recommendation is that it should apply to major residential development.
95. The policy needs to be read as a standalone statement of policy which will be quoted away from the plan document, such as on planning decision notices. I therefore propose to remove reference to “paragraph 9.7”. The policy is still workable without that reference.
96. Beyond that I have no further concerns regarding this policy.

Recommendations

In A. after “all new” insert “major residential”
In B. delete” as set out in paragraph 9.7”
In C. delete the rest of the final sentence after “local character”

Policy P14: Publicly Accessible Parking

97. My only comment on this policy is that the planning system cannot ensure that public vehicle charging points are “affordable, reliable and open access” as these are not a matter for planning regulatory control. The Parish Council has recognised that and accept that the reference can be withdrawn. Beyond that the policy meets basic conditions.

Recommendation

In C. (ii), delete all text after “(wireless charging facilities)”

Policy P15: Community Facilities

98. In terms of this policy, again the issue of cross referencing the information in the supporting text, can be improved, so the policy can become a stand-alone policy, by referring to the facilities that have been identified in the policy itself as needing improvement, so as to include, facilities for teenagers, new cafe and public toilet facilities at Lower Green Recreation Ground, improved and additional sport pitches and improvements to the church hall.
99. I do not consider that it is the role of the planning system to ensure that new facilities “are fit for purpose and built to Sports England design guidance” as that is the role of the client / applicant, who is specifying and funding the new facilities. It would not be possible to refuse a planning application on the grounds that the building did not meet a particular specification or a pitch dimension, for example, did not meet guidance. I will equally recommend that reference to Sports England’s guidance be removed in terms of new and upgraded play areas.
100. Beyond that I consider that the policy meets the basic conditions.

Recommendations

In A. replace “those identified in paragraph 10.2” with “facilities for teenagers, new cafe and public toilet facilities at Lower Green Recreation Ground, improved and additional sport pitches and improvements to the church hall”

Delete A.(v)

In B. delete “and designed in accordance with Sport England’s design guidance notes”

The Referendum Area

101. 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 Pembury Neighbourhood Plan as designated by Tunbridge Wells Borough Council on 14th July 2020 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

102. I congratulate Pembury Parish Council on producing this locally distinctive neighbourhood plan. The plan will sit comfortably alongside the new Tunbridge Wells Borough Local Plan when it is finally adopted and it has allowed the local community to be able to shape the development that will take place in the parish over the next few years including the major developments which will be taking place to the south of the village.

103. It is clear that a huge amount of hard work has gone into this plan by volunteers on behalf of the local community. It is a professionally produced neighbourhood plan with clear maps and it make good use of photographs. It is a very clear and understandable document.
104. 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.
105. I am therefore delighted to recommend to Tunbridge Wells Borough Council that the Pembury Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI, FRGS.

John Slater Planning Ltd

6th April 2023