

# Benenden Neighbourhood Development Plan 2020-2036

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## Submission Version

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

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## Executive Summary

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

- Changing the end date of the plan to 2038.
- Deleting the policy on distinctive views.
- Listing the local green spaces in the policy, but removing Hilly Fields.
- Removing from policy, the requirements indicating which documents should accompany a planning application.
- Removing arbitrary buffer zone distances to allow a more responsive buffer zone specific to particular species and locations.
- Making the policy relating to ongoing maintenance of habitats enhancement/protection measures more flexible so it would be dependent on the nature of the green infrastructure.
- Removing the requirement of the rear gardens must be enclosed by hedging.
- Removing the overarching policy setting of housing numbers and the site allocations.
- Amending the housing mix policy to bringing it into line with Parish Council's intentions.
- Confirming that almshouses administered by the Benenden Almshouse Charities can be treated as affordable housing.
- Deleting the policy dealing with live/work units.
- Requiring that housing developments to make efficient and effective use of land whilst not distracting from the character and distinctiveness of the locality.
- Removing elements from the allocation policies which duplicate other plan policy and removing reference to securing unspecified contributions not identified in the plan.
- Changing the housing numbers on the South East Quadrant of Benenden Hospital site to be “up to 25 dwellings”, in order to allow appropriate protection of the local wildlife site particularly at the northern part of the site.
- Amending the requirements regarding planning contributions to be sought on the two Benenden Hospital allocation sites.
- Removing the requirement that lighting should be subject to ongoing maintenance, as a policy requirement.
- Deleting the policy offering support for farming and forestry.
- Removing Benenden school and Benenden Hospital from the map showing commercial premises

- Clarifying that where planning contributions are sought the obligations need to meet the requirements set out in the three tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- Removing the requirement that housing development should fund electric car charging points at Benenden Hospital.

The referendum area should be extended beyond the Plan area to include the following properties in Mockbeggars Lane, East End:

- Walden
- Trump Farm
- New Mockbeggar
- Wynmere
- Corydon
- Tall Trees
- Jacobs Place

## 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 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 Benenden 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 Benenden 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 Benenden 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 43 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 Benenden 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 Benenden 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, only relates to the development and use of land, if amended in line with my recommendations, covering the area designated by Tunbridge Wells Borough Council, for the Benenden Neighbourhood Development Plan, on 31<sup>st</sup> August 2017.
  10. I can also confirm that it does specify the period over which the Plan has effect, namely the period from 2020 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 Benenden Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

### ***Recommendation***

***That the period over which the plan is to have effect should be extended to 2038 and the title of the plan should be amended accordingly.***

## **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 carried out an initial unaccompanied visit to Benenden on the afternoon of 27<sup>th</sup> February 2021, as I was taking advantage of being in Kent having conducted my site visit to the village of Lamberhurst in the morning, (I was also conducting their neighbourhood plan examination). I initially drove around the main part of Benenden village and saw the two allocation sites. I bought my lunch in the community shop. I then moved on to Iden Green, before heading north to East End to see its two allocation sites but when I got there, I saw that there was no public access to the South East Quadrant as the site was secured by hoardings. I therefore decided that I would need to return and make specific arrangements to gain access into the secure site.
17. I therefore arranged to be able to enter the former hospital site for my return visit on 22<sup>nd</sup> March 2021. The arrangements for my visit were facilitated by the Parish Council and I was allowed to wander around the site by myself, having been provided with a set of keys by the Estates Department of the hospital. Following my inspection of the South East Quadrant, I then visited the second allocation site across the road. I then made a point of driving around the surrounding countryside, including travelling down Mockbeggars Lane and I saw for myself the Castleton Oak cross roads and I continued down to the village of Biddenden.
18. I then returned to the parish, to conduct an unaccompanied site visit to the garden of Uphill, which again had been arranged for me by the Parish Council. Whilst in Benenden I again drove to and stopped to look at the site adjacent to Feoffee Cottages.
19. On this second visit, I also visited the other sites which had been raised by objectors (due to the omission of their sites from the allocations) during the Regulation 16 process. I also was able to gain a good impression of the proposed changes to the limits of development, although these changes are being taken through the local plan rather than the neighbourhood plan making process.
20. I was able to appreciate a sample of the distinctive views that the plan is seeking to protect and I visited each of the local green spaces, walking down the footpath adjacent to Hilly Fields, having parked close to the Parish Church.
21. I saw for myself some of the recent developments that had taken place within the parish and I was able to gain a strong impression of both of the style of building in the parish as well as the landscape quality of the High Weald AONB. At the end of my visit, I made a return visit to East End, approaching along Stepneyford Lane / Green Lane so I could appreciate the relationship of the Hospital site and the AONB, when viewed from the south.
22. Following my site visits, I prepared a document entitled Initial Comments of the Independent Examiner, dated 26<sup>th</sup> March 2021, seeking clarification on a number of matters, which I sent to both the Parish Council and Tunbridge Wells Borough Council. This note also asked questions of the Benenden Healthcare Society and

the Friends of East End. I received responses from all the parties on 30<sup>th</sup> April 2021. The responses have been placed on the respective websites.

23. The responses prompted me to issue a Further Comments document, on 31<sup>st</sup> May, within which I set out my decision to call for a hearing, in order for me to explore a number of specific issues regarding the proposed two allocations at East End. I set out six questions that I would want to explore at the hearing and I invited the involvement of both the Borough Council and Benenden Parish Council plus the Friends of East End and the Benenden Healthcare Society. I also invited the High Weald AONB Unit to contribute to the discussions related to the assessment on the impact of the allocations on the AONB and both Biddenden Parish Council and Kent County Council as Highway Authority, relating to my deliberations on the traffic implications.
24. This hearing took place on 25<sup>th</sup> June 2021 and started at 9.30am. Due to uncertainties over the COVID restrictions on public gatherings I had decided, in line with Government advice, that the hearing should be held via video conferencing. The session which lasted until approximately 3pm, with a break for lunch, and was streamed live over the internet. A copy of the recording of the hearing is available at [https://tunbridgewells.public-i.tv/core/portal/webcast\\_interactive/580572](https://tunbridgewells.public-i.tv/core/portal/webcast_interactive/580572). I wish to personally thank all the participants for the constructive role they all played during the discussion.
25. I have asked that all these documents be made available on the respective websites.

## **The Consultation Process**

26. The need for a neighbourhood plan for the parish had been identified in the 2015 Benenden Parish Plan. The first meeting of volunteers, recruited by the Parish Council, took place on 25<sup>th</sup> March 2017. The approval of the parish's designation as the neighbourhood area was confirmed on 31<sup>st</sup> August 2017 by Tunbridge Wells Borough Council.
27. Public engagement with the neighbourhood plan through the process has been via a variety of methods, including public meetings, workshops, exhibitions, circulation of emails, articles in the parish magazine and posters around the village.
28. An initial vision and objectives workshop was the first of a number of sessions held during the second half of 2017 and into early 2018. Other workshop topics included housing and community, local economy and transport, landscape and environment. Another early initiative was working with the village primary school on a project, examining how the village may look in 2033.
29. The first public exhibition was held in the Village Hall in April 2018 which reviewed the work of each of the work groups and the sites that have been put forward through the "call for sites" process. A second exhibition was held at the end of September 2018 which sought to establish what the planning criteria should be, for the site selection/ allocation process.



30. A “rough draft “of the plan was launched at a public meeting held on 23<sup>rd</sup> February 2019. That version of the plan identified the need for more affordable housing as well as reflecting the preference for development on small sites, a preference to see development on brownfield sites and protecting the AONB.
31. Feedback from the “rough draft” consultation resulted in a rewrite of the plan, although the proposed site allocations were unchanged.
32. 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 25<sup>th</sup> August 2019 to 31<sup>st</sup> October 2019. This produced a wide range of detailed comments, which are set out in Appendix C of the Consultation Statement.
33. The Parish Council set up a different committee, which included parish councillors, to review the Regulation 14 comments and to decide how to respond to the comments made and these are set out in the Appendix, along with the resultant changes made to the plan.
34. Throughout the plan making process, there has clearly been close liaison with the Tunbridge Wells Borough Council. Many of the comments made by objectors point to the fact that the High Weald AONB Unit had not been asked to comment on the sites immediately outside the AONB. I heard at the hearing that the authors of the plan had requested the AONB Unit to review all the allocation sites, but unfortunately, it had only responded to the sites which were inside the AONB, rather than all the sites and it appears that the steering group were surprised to receive subsequent objections from the Unit to the East End allocations. The Consultation Statement also sets out the meetings that were held with the other stakeholders including landowners.
35. I have noted that there has been some criticism made of the plan’s consultation process, particularly from those opposed to the East End allocations, but having reviewed the material and all the correspondence, I am satisfied that the plan making process has been open and the whole community, across all parts of the parish, have had plenty of opportunities to be able to shape the plan.
36. However, by the very nature of the difficult decisions involved in plan making, some people may not agree or support the proposals that have emerged from the process which have now been submitted. That is why the neighbourhood plan process offers all residents, an opportunity through the referendum to indicate whether they support the neighbourhood plan being used to help the determination of planning applications within the parish of Benenden.

## **Regulation 16 Consultation**

37. 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 30<sup>th</sup> October 2020 and 11<sup>th</sup> 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.

38. In total, 131 responses were received including 3 late representations which I have accepted. These responses included from Natural England, South East Water, Southern Water, Kent County Council, Tunbridge Wells Borough Council, Environment Agency, High Weald AONB Unit, CPRE Kent, Network Rail, Highways England, Historic England, National Trust, Benenden Healthcare Society, Biddenden Parish Council and Millwood Homes. The vast majority of the comments came from individuals, but from the information provided to me, I do not know the split between those who live in the parish and those that live outside. A significant number of letters appear to have been based upon a number of standard templates and many of them identified that Hazel Strouts, on behalf of the Friends of East End, was acting as their agent.
39. 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

40. 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.
41. 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?
42. On 20<sup>th</sup> July 2021 an updated version of the National Planning Policy Framework was published and came into effect immediately. It is therefore against this latest statement of government policy that I will be referring to when assessing the neighbourhood plan in terms of it having regard to Secretary of State policy and advice- which is one of the basic conditions.
43. In the interests of fairness, I offered all parties who were previously made representations at the Regulation 16 stage, the opportunity, over a two-week consultation period, to identify whether any of the changes to the NPPF should impact on my assessment of how the Benenden neighbourhood plan complies

with the basic condition. Substantive comments on the implications of the changes were submitted by the High Weald AONB Unit and the Friends of East End.

44. All NPPF paragraph numbers which I refer to, relate to the 2021 version of the Framework.

## **Compliance with the Development Plan**

45. The development plan comprised the saved policies of the 2006 Tunbridge Wells 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 address matters that are cannot be covered by a neighbourhood plan policy.
46. 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 (LBD) around the main village of Benenden and also Iden Green.
47. 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 states that priority will be given to the release of previously developed land within the LBDs of settlements and sites adjacent to or outside of the LBD of villages will not generally be allocated or released. But it does go on to say that exceptionally sites may be released where there is an identified need for affordable housing for local housing needs where there is not a site available with the LBD. It also requires development to contribute to provide/contribute to “services, facilities and infrastructure for which they create a need”.
48. 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.
49. 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.
50. Finally, Core Policy 14 deals with Development in the Villages and Rural Areas. Benenden and Iden Green are both identified 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.

51. The Site Allocation Local Plan does not make specific proposals to Benenden 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.
52. 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. Policy STR 3 is a strategic policy covering development on brownfield land and supports the effective use of redundant, disused or underutilised brownfield land and buildings in sustainable locations. The 3<sup>rd</sup> criterion sets a range of specific requirements for the development of brownfield sites outside limits of development.
53. The plan has a specific policy for Benenden parish, Policy PSTR/BE 1 which expects the parish to deliver approximately 87 - 95 new dwellings, which will be additional to the 23 (net) houses already consented at the SE Quadrant at Benenden Hospital. There are 4 specific allocation policies; Policy AL/ BE 1: Land adjacent to New Pond Road, Policy AL/ BE 2: Feoffee Cottages, Walkhurst Road, Policy AL/ BE 3: Land at Benenden Hospital, south of Goddards Green Road and Policy AL/ BE 4 Land at Benenden Hospital – north of Goddards Green Road.
54. The draft plan proposes a revised limit to development boundary around Benenden village and the removal of the limit to development boundary around Iden Green.
55. This plan, whilst indicating a clear direction of travel in terms of the development of planning policy, based on an up-to-date assessment of housing need and more up to date Government advice, contains what are currently only draft policies which will be subject to further public consultation and public examination and have not been adopted as development plan policy. Therefore, this document is not relevant to the test of general conformity with strategic policies in the development plan as set out in the basic conditions but can be material to a number of other basic conditions.
56. There are number of non-strategic policies in the draft Local Plan which covers matters which are also covered by the Benenden Neighbourhood Plan such as designation of local green space. The Borough Council has committed to remove those parts of the policies which affect Benenden Parish from future versions of the local plan, if the neighbourhood plan is made first, to prevent unnecessary duplication of planning policy.
57. I am very conscious that the adopted plan policy predates the introduction of the National Planning Policy Framework and I heard that a number of the policies are now inconsistent with current Secretary of State policy. These policies were

prepared against a very different background in terms of the need to secure a significant increase in housing. There is also a much stronger commitment to the use of previously developed land, irrespective of whether or not it falls within a village and the recognition that all types of settlements can play a role in meeting local housing needs.

58. 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, when looked at in the “round”.

## **Compliance with European and Human Rights Legislation**

59. Tunbridge Wells Borough Council issued a Screening Opinion, in a report dated March 2019, 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 be required.
60. A Strategic Environmental Assessment was carried out on behalf of the Parish Council by AECOM using an accepted methodology and it looked at two development scenarios, one focussed on brownfield sites and the second on greenfield sites. It considered, as potential alternatives, the delivery of development on eight possible sites, each of which were assessed against eight SEA themes. It concluded that the neighbourhood plan would lead to significant positive effects in relation to population and community theme, health and wellbeing and transportation themes, positive overall effects in terms of land, soil and water resources arising from the fact that three out of the four allocation sites are on brownfield land and will bring positive effects under landscape and historic environment and mitigation measures will address climate change impacts.
61. The Borough Council, as competent authority, in a screening report dated May 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 sites, the nearest of which is the Ashdown Forest SPA / SAC.
62. 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**

63. 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 Benenden parish. The neighbourhood plan will, if it passes referendum, be an important tool to guide and shape development

64. Whilst the issue of the housing allocations and housing supply matters have dominated the feedback on this neighbourhood plan and to a large extent the examination, the neighbourhood plan actually deals with a much wider range of issues covering landscape and the environment, design and built environment, business and the local economy and transport and infrastructure.
65. Work on the neighbourhood plan has taken place in parallel with work on the emerging Tunbridge Wells Local Plan and I have seen ample evidence of joint working and indeed, some of the neighbourhood plan policies draw upon evidence collected as part of the local plan evidence base. I consider that this collaborative approach accords with the Secretary of State aspirations as set out in the plan making section of the Planning Practice Guidance (para 006). However, the test of the basic conditions is general conformity with the adopted not the emerging local plan, where consideration of the results of the recent public consultation could change the document, as well as the need for it to go through its examination process. However, the synergy between the two documents can be of relevance in terms of meeting other basic conditions particularly having regard to the Secretary of State policy and advice as well as the delivery of sustainable development.
66. Despite the high level of planning constraints, 98% of the parish is within the AONB, the plan has been able to respond to the stated community's aspiration to see the delivery of more housing, which have built upon the previous parish plan's ambitions for a 1% per annum increase in housing which, although not in a development plan document, reflected the parish's priorities and in particular a desire to be building a significant amount of affordable housing. It has clearly been the foundation upon which the neighbourhood plan has been able to build. I find that a refreshing approach especially as the plan area appears to be a high property value, affluent rural area in attractive countryside. Too often I see neighbourhood plans which grudgingly only seek to provide the minimum housing numbers required of them by the local planning authority.
67. In this case, it appears that the figure being quoted by Tunbridge Wells as the housing figure for the neighbourhood plan area, which is required by paragraph 66 of the NPPF, coincides and has no doubt been driven by the scale of housing envisaged in the neighbourhood plan. I understand that this figure is derived from the sum of the sites which the plan is proposing to allocate, rather than the plan allocating sites to meet the number given to it by the LPA. It is also a figure that is in excess of the identified housing need for the parish but will contribute to the overall objectively assessed housing need for the borough as a whole.
68. This leads me on to the question as to how the neighbourhood plan has approached site selection. I am satisfied that the Parish Council has adopted a robust and objective assessment of the sites which were put forward through the call for sites. The selection has been strongly influenced by the stated desire of the local community to direct new housing to land which had been previously developed, rather than focussing on green field sites. Whilst there may have been a preference for smaller development, the plan has taken a sensible and

pragmatic decision to allocate sites of over 10 units as smaller developments would not trigger the need to provide onsite affordable housing. The only green field site being allocated will be on land owned by a local housing charity which will deliver a significant number of affordable houses, funded by enabling market housing. This could be viewed in the same way as some rural exception sites. That site, on land adjacent to Feoffee Cottages, already has a resolution to approve. Other green field sites were put forward and has some support especially from those opposed to the East End allocations but were not found to meet that fundamental selection criteria / preference which the community had established, before the site selection process had taken place.

69. In considering the merits of competing sites which have not been allocated, I also place significant weight on the Government's desire that it should be the local community's right, through the neighbourhood plan process, to decide which sites should be allocated. To that end, I am not surprised that the redevelopment of brownfield sites owned by Benenden Healthcare Society were favoured over greenfield sites. I do not accept the argument that it was a tainted process, a case made by some could, perhaps, be summarised as of "pushing new housing to the edge of the parish to protect the amenities of the Benenden and Iden Green residents". The two hospital sites lie outside of the AONB, albeit close to the boundary and affects its setting. These are already substantially developed sites, and one has already received planning permission on part of the allocation site for 24 houses. I also place weight upon the fact that the chosen sites have also been through the sustainability appraisal process, both as part of the neighbourhood plan and the emerging local plan.
70. As I have previously stated in the Development Plan section of this report, I must acknowledge that there is some conflict with the outdated local plan policy framework, in terms of the plan supporting development on land which falls outside of current limits of development. However, that is counterbalanced by the desire to provide more housing in the parish and to do so predominantly on brownfield land, as encouraged by national policy.
71. A number of the representations raised the issue of the sustainability of the East End location, pointing to the lack of its own facilities and therefore it is not a suitable location for major housing development. The limitations of the site's location are acknowledged in the plan as well as the SEA, but as in many such decisions, any judgement needs to balance conflicting factors – the fact that the sites are already developed, are outside the AONB, there is already consented development on the SE quadrant site and existing housing on the NE quadrant, all of which are likely to be car dependant to be able to access existing facilities, mean that the potential to deliver more homes, many of which will be affordable, must be balanced with the fact that the settlement does not enjoy many of the day to day amenities within walking distance, which are available, say within Benenden village. However, I find very persuasive the unchanged advice in paragraphs 78 to 79 of the NPPF dealing with rural housing which states that housing should be located where it will enhance or maintain the vitality of rural communities. Of particular relevance is the recognition that development in one

village may support services in a village nearby. I therefore feel that development at East End can support community services in Benenden.

72. The Friends of East End did attempt to persuade me that the new Framework changes required a genuine choice of transport modes, but that reference is made in the context of new settlements and significant extensions to villages and towns.
73. An early part of hearing was taken up by my question as to whether East End should be treated as a settlement. It was, I believe accepted by all sides, that this would be a matter that the decision maker, in this case myself as examiner, to take a view.
74. My conclusion is that East End can indeed be classed as a settlement, although not necessarily as a village. Whilst the creation of a sanatorium may have been the driving force for its initial development, and Benenden Hospital is still the predominant land user, East End contains a mixture of uses, including residential properties which are no longer occupied by hospital employees but are rented out. Similarly, I heard that the recreational and community facilities at the hospital are used by the wider community and not solely used by hospital staff / visitors. The collection of houses off Mockbeggars Lane equally appear to form part of the settlement of East End.
75. The residents of East End will already look to other villages, both within the parish and across the borough boundary for their community facilities, whether it be the primary school, community hall or the shops and other businesses. Both the local plan and the neighbourhood plan seek to, at least address, some of the deficiencies in the services available for the existing and new residents, by seeking to secure access to the hospital cafe (shop), community buildings and sports facilities. I consider that this is partial mitigation, to reflect the lack of facilities in East End which should enhance, to some extent, its sustainability as a community. I note that there are other infrastructure improvements which are discussed in the specific policies, which arise fully or in part as a result of the developments including seeking funding for a cycleway /footpath linking East End to Benenden Village.
76. Overall, I am satisfied that the plan will contribute to the delivery of sustainable development within the Benenden parish. The scale and type of housing will meet the social objective of ensuring sufficient homes for the present and future generations, providing for high quality design, which is in keeping with the character of the built environment set in a wonderful landscape, whilst seeking to protect existing businesses and commercial areas and providing for the necessary infrastructure, whilst at the same time making best use of brownfield sites, minimising the use of greenfield sites, protecting the landscape and the parish's fine views, especially from the ridgelines and protecting the green spaces that are valued by the community.
77. 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 and in particular the circumstances where



developer contributions can be sought. 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.

78. 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. It will also be necessary for the Referendum version to reflect the up-to-date paragraph numbers used in the 2021 version of the NPPF
79. Following the publication of this report, I would urge the Parish Council and Tunbridge Wells'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

## The Neighbourhood Development Plan Policies

### Policy LE1 Protect and Enhance the Countryside

80. Those parts of the parish falling within the AONB already enjoy the highest level of landscape protection, as set out in paragraph 172 of the NPPF.
81. I do feel policy should be drafted in a positive manner rather than a seemingly begrudging sense, which is implied by the fact that in the second paragraph, the policy says that permission will be *only* be permitted granted if it meets the criteria. A more positive approach to development would be signalled by saying that development will be permitted if it meets the 5 requirements.
82. The policy requires development proposals must have regard to the High Weald AONB Management Plan. The Management Plan does not have the same status as a development plan document. As explained in the Planning Practice Guidance, what the management plan does is set out a statement of significance of the natural beauty of the High Weald, and establishes the key characteristics of character areas, includes a set of management policies. It is this description of the key characteristics that can be given great weight in determining planning applications. I will soften the policy by referring to proposals "should" have regard to the AONB Management Plan.
83. In requirement d) I do not consider that the aim of the policy should specifically seek *to enhance* the four features, namely the local green spaces, ancient woodland, historic landscapes and rural lanes, beyond the general policy to

protect and enhance the High Weald countryside set out in the first paragraph of the policy.

### **Recommendations**

***In the second paragraph delete “only”***

***In a) replace “must” with “should”***

***In d) delete “and where possible, enhance”***

### **Policy LE2: Distinct Views**

84. This policy effectively duplicates the protection of the key views which are set out in Figures 10 and 11. The Parish Council recognises that this is unnecessary and has suggested that that the policy be omitted and I will recommend accordingly.

### **Recommendation**

***That the policy be deleted***

### **Policy LE3: Local Green Space**

85. I consider that it is important for the policy to actually designate the local green spaces, which currently it does not. I am satisfied that all but one of the areas have been justified and meet the criteria set out by the Secretary of State in paragraph 102 of the NPPF.

86. There was an objection at the Regulation 16 stage to the inclusion of Hilly Fields on behalf of the landowner. Whilst I noted the open aspect of the land and the views, I was not clear whether this space met the criteria of being considered demonstrably special by the local community. This was the one area of open space which was not identified by the Borough Council in its Pre-Submission version of the Local Plan for its designation as local green space within the parish. The Parish Council has subsequently agreed to Hilly Fields being removed from the list of local green space.

87. I understand from the planning officers at Tunbridge Wells Borough Council that if the neighbourhood plan designates local green spaces, then these areas will be removed from future versions of the Tunbridge Wells Local Plan.

88. The final paragraph the policy seeks to require any planned developments to not adversely affect the identified significance of a particular local green space. LGS designation policy is intended to identify and protect green areas. Paragraph 101 of the NPPF refers to policies for managing development *within* a local green space should be consistent with policies for the Green Belt. It does not countenance policies to protect the setting of local green spaces, which in most cases will already be protected by the AONB and development plan countryside protection policies.

89. The policy includes the subscript reference to Policy EN 17 of the emerging local plan. I will be proposing that this reference be removed, as that policy, for example, refers to community use, which is not necessarily a pre requisite for LGS designation. It also allows for the offsetting to compensate for the loss of LGS, which would not be in accordance with Secretary of State advice, which

offers the highest level of protection to LGS. The provision of replacement open space would only be available to compensate for the loss of other areas of open space, which are not LGS as set out in paragraph 97 of the Framework.

### **Recommendations**

**Replace the first paragraph with the “The following green areas are designated as local green spaces as shown on Figure 18:**

**East End Old Cricket Pitch**

**Corner Green at junction of Goddard s Green Road and Walkhurst Road**

**Catholic Chapel Field**

**New Pond Corner**

**Central Green Area, Cherryfields**

**Benenden Recreation Ground**

**Beadle Platt**

**St George’s Churchyard**

**Beacon Field**

**Iden Green Recreation Ground”**

**Remove Hilly Field from the map on Figure 18**

**Remove subscript 6 at the end of the second paragraph**

**Delete the final paragraph**

### **Policy LE4 – Public Rights of Way**

90. I have no concerns regarding the first element to the policy, in the first two sentences, but it could be strengthened.
91. The second section refers to when new footpaths and new cycle paths are to be created. For example, a decisionmaker would not know under what circumstances, contributions should be properly sought. I will take up the Kent County Council suggestion that contributions should be sought “where necessary to increase connectivity for non-motorised users”.
92. The policy contains an option of using CIL/section 106 contributions. At the present time, Tunbridge Wells Borough Council has not adopted the Community Infrastructure Levy Scheme and it has stated that it would look to review the position once the new local plan has been adopted. It may well be by such time the government may have introduced a new form of levy. All of that is supposition and until the matter is resolved, I will retain reference to contributions being made under Section 106, which will mean that the payments must meet the three-tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### **Recommendations**

**Delete “Any”**

**Replace the last two sentences with “New PROW should be created, where appropriate, to increase connectivity for non-motorised users, if necessary, using funding delivered by a Section 106 contribution. Planning applications that would adversely affect the existing PROW network will not be permitted”.**

### Policy LS5: Trees, Woodlands and Hedgerows

93. I have no fundamental concerns regarding this policy; however, it should be appreciated that there is no planning control over pre-emptive felling of trees unless the trees and woodland are covered by a tree preservation order or the trees are within a conservation area. The protection of hedgerows is subject to greater statutory control, subject to specific exemptions and their retention as continuous green wildlife corridors is to be encouraged, as pointed out by Kent County Council.
94. I will recommend the imposition of the additional requirements partially as suggested by the High Weald AONB Unit, which is supported by the Parish Council.

#### **Recommendation**

***Replace the policy wording with “There will be a presumption in favour of the retention enhancement of existing trees, woodland and hedgerow cover on site and the restoration of lost trees, woodland and hedgerows. Any new tree or hedgerow establishment should avoid damaging valued areas such as species rich grassland or mediaeval fields. New development including building and hard surfacing shall be located as sufficient distance to existing or new trees and hedgerows to avoid damaging their health or future capacity for growth”***

### Policy LE6: Ecological and Arboricultural Site Surveys

95. A neighbourhood plan policy cannot dictate what documents/ surveys must be submitted with a planning application. According to the Town and Country Planning (Development Management Procedure) Order 2015, that is the role of the local validation list, which is prepared by the Borough Council and covers all development across the borough. The Tunbridge Wells Local List sets out that a Tree Survey and Arboricultural Implications Assessment must be submitted where proposals could have an impact on significant trees, on or adjoining and application site. Similarly, an Ecological and Protected Species Survey is required if it is likely the development will affect the statutorily protected species or is in the SSSI or SPA.
96. This policy cannot circumvent the Borough Council’s requirements, and I will be recommending that the part of the policy specifying what is required to be submitted with an application, should be removed. However, I do consider that it is reasonable for the policy, which could be renamed New Green Spaces, to suggest that new green spaces are located in areas where there is existing habitat.

#### **Recommendations**

***Retitle policy “New Green Spaces”***  
***Delete the first paragraph***

## Policy LE7: Protection of Habitats Adjacent to Developments

97. There was a discussion on the feasibility of imposing a 50-metre buffer to protect local wildlife sites and other areas of natural importance. That figure is based on Woodland Trust guidance. However, the 2019 version of that guidance notes that there is “no one size fits all” with buffer design. Each one should be designed to fulfil the specific requirements of its location and the type of proposed development. It does set, as a precautionary principle, a minimum of 50 metre buffer between a development site and ancient woodland, unless it is demonstrated that a smaller buffer would suffice.
98. The policy extends that policy to habitats and features beyond ancient woodland. Natural England’s recommendation of a 15-metre buffer, equally relates only to ancient woodlands to avoid root damage.
99. At the hearing, the Parish Council stressed the caveats to the policy, when the policy requirements would be imposed upon the South-East Quadrant housing site, where the ecological interest is primarily based upon the importance of nature of it being improved grassland and the site’s fungi.
100. I consider that the principle of the using buffers can be a sensible policy approach, but it is inappropriate to be quoting specific distances, where they should be based on the constraints of the site and the specific species that should dictate the depth of buffer which is required. For example, there is a significant difference between the 50-metre required by the Woodland Trust and the 15 metres quoted by Natural England. I will be recommending that the policy be changed to be less prescriptive and should be based on the site’s habitats and its specific requirements. For some locations, for example within the middle of a housing allocation, it may not be a good use of land to prevent such areas to be used for community areas, so long as the ecological importance’s protection and enhancement remains paramount.

### **Recommendation**

***Replace the policy with “Where new housing or commercial development is proposed, an appropriate depth of buffer must be provided between the development and any protected habitat, ancient woodland, any local wildlife site or other areas of natural or ecological importance and the size of that buffer shall be appropriate to safeguard the significance of that habitat. Where appropriate, the buffer itself must be kept a natural wildlife haven and will not be expected to be used as an amenity area unless it is demonstrated that such use will not adversely affect that feature of natural importance.”***

## Policy LE8 – Ongoing Involvement for Maintenance

101. I do not consider that it is reasonable for a developer to only be required to consider appropriate management measures, where “required by the Parish Council or TWBC”. I consider the approach being taken by the Borough Council in its Green Infrastructure Plan SPD is appropriate, as it differentiates

between small schemes, which will be limited in terms of green infrastructure to such items as the inclusion of bird boxes, and larger sites where the green infrastructure is integrated into the development. These are matters that are traditionally dealt with at the development management stage, which looks at the adequacy of maintenance regimes and possible transfer responsibility of developers to other bodies, along with commuted payments towards future maintenance. I do not consider the policy which differentiates between wildlife related sites and other green infrastructure is necessarily helpful and the more holistic approach should be adopted, which can also consider specific requirements based on the ecological significance of the site.

#### **Recommendations**

***In the first sentence replace “must, where required by the Parish Council or TWBC” with “will be expected, where appropriate to” and replace “wildlife related aspects of” with the “green infrastructure elements”.***

***In the second sentence replace “must where required, also” with “will be expected, where appropriate, to”***

#### **Policy LE9: Features to Encourage Wildlife**

102. Whilst I commend the spirit behind this policy, I consider it unrealistic to require say, the rear boundaries between the new properties to have to be native hedgerows. That raises issues of responsibility for future management and maintenance of the new hedge, providing privacy for occupiers in the early years whilst the hedge becomes established as well as the containment of small children and pets. I can appreciate that there will be some locations, where the planting of boundary hedges would be an appropriate approach, perhaps by incorporating a new fence which could provide screening. I would recommend the modification of the policy. The reference to Project 1 should be removed.

#### **Recommendations**

***In a) insert at the start, “Where it is practical to do so, schemes are encouraged to” and after “use” insert “of”***

***Delete the final paragraph***

#### **Policy LE 10: Sustainable Drainage for New Housing and Commercial Development**

103. Some developments will not have any surface water drainage implications such as changes of use. I will therefore recommend that “must” be changed to “will be expected to”

104. The second sentence provides advice as to where information can be provided. This is not really a statement of policy but guidance as to how the policy can be met. I proposed that this information should be moved to the supporting text.

#### **Recommendations**

***In the first sentence replace” must” with “will be expected to”***

***Move the second sentence to the supporting text.***

### **Policy HS1: Site Allocations and Number of New Dwellings**

105. I feel that this is actually a statement of fact, rather than a statement of policy in that it is referring to sites which are being allocated by the four other neighbourhood plan policies, namely Site-Specific Policies SSP1, SSP 2, SSP3 and SSP4, plus it refers to windfall development, allowed by virtue of Policy HS5. The matter is further complicated by the fact that it refers to the site with planning permission in Walkhurst Road, which I saw during my site visit has now been completed. Furthermore, the extent of planning consent for 24 dwellings at the South-East Quadrant of Benenden Hospital would be supplemented by an additional 20 to 25 units. Similarly, the Hospital's North East quadrant is promoting the redevelopment or refurbishment of the existing 18 houses- so the extent of the development proposal could be closer to 40 to 45 units.
106. As the policy is effectively duplicating other policies, I am recommending that the position would be clearer if the situation was fully described in the supporting statement.

#### ***Recommendation***

***That the policy be deleted and the references to the 4 allocation and the windfall policy be referred to in the supporting text and remove reference to Walkhurst Road being an extant consent.***

### **Policy HS2: Delivering a Balanced Community**

107. It is quite a reasonable for a neighbourhood plan to be able to set out expectations regarding housing mix. I am not altogether convinced that the expectations of the policy, are necessary drafted as clearly as they could be. Secretary of State's advice is that neighbourhood plan policies should be clear and unambiguous. For example, I am not clear as to whether the proposals only apply to the allocation sites, when the policy refers to "Proposals for housing development allocated within the neighbourhood plan will be designed to provide for balanced communities" or does it apply to all housing developments that take place in the parish.
108. Furthermore, I do not consider that the housing mix policy can be used to generate the affordable housing requirements, which are set by the local plan but it can indicate the type of affordable housing which the parish is seeking. In part, the second sentence actually is the objective of the policy. I find that the crux of the policy is found in the third sentence, which refers to an integrated variety of housing types such as flats, maisonettes and bungalows as well as family homes.
109. I raised this matter with the Parish Council and in its response, it indicated that it had also concluded that the wording of the policy could be clearer. I was told that what the policy was actually seeking to achieve is that the the required mix of units and the split between affordable / market housing should be in accordance with the existing Tunbridge Wells policy and that

affordable housing should be indistinguishable from market housing. I will be proposing an alternative wording.

110. Of the four requirements, there will be some sites which will not be of a size which would trigger the need for affordable housing. The second requirement relates to suitable properties for older persons who wish to downsize within the parish. In the absence of a local connection policy, the objective of restricting occupation to residents who wish to downsize could not be delivered. The objective of having housing which is capable of being suitable for occupation by elderly persons is appropriate, but it cannot be restricted just to elderly persons, by providing a stock of new homes which existing residents would then be able to choose to purchase, when they decide to downsize. Again, the absence of a local connection policy prevents any differentiation for parishioners and new residents.

#### **Recommendation**

***Replace the policy with “Where developments trigger a requirement for the inclusion of affordable housing alongside market housing in accordance with Local Plan policy, the design and layout shall be such so that the appearance of the affordable houses is undistinguishable from the market housing. All developments will be expected to deliver a mix of different house sizes and housing types including where appropriate, flats, maisonettes and bungalows to ensure the development meets the needs of the local community, including homes capable of being suitable for the needs of an aging population.”***

#### **Policy HS3: Almshouses**

111. There is an issue with the drafting of this policy, which will be used by decision-makers to determine any applications. At the moment the policy permits the Parish Council, which is only a consultee on planning applications, to support schemes that apply the almshouse principle.
112. The issue is whether the delivery of affordable housing can include provision of almshouses, notwithstanding the fact that this type of housing does not fall within the Secretary of State’s definition of affordable housing. I raised this matter in my Initial Comments and I am satisfied by the response that the existence of the Benenden Almshouse Charities offers a local dimension which can justify its inclusion as the provider of affordable housing in the parish. I will be clarifying in my recommendations that it is almshouses administered by the Benenden Almshouse Charities which will be accepted as a form of affordable housing. I understand that this is also the position which was adopted by the Borough Council when it considered the planning application on the Feoffee site.

#### **Recommendations**

***Replace “Parish Council” with “Neighbourhood Plan”  
Delete the text after “site ref 277) and” and insert “the almshouses they provide will be treated as affordable housing”***



#### Policy H4: Live/Work units

113. I raised the question as to why, if the principle of residential use was acceptable, the policy seeks to prevent the dwelling reverting to wholly residential use, in the case of where the workplace element was abandoned. In its response to Borough Council advised that after consideration and following representations it had decided to withdraw the policy.
114. I will be recommending that the policy be deleted.

#### *Recommendation*

***That the policy be deleted.***

#### Policy HS5: Windfall Sites

115. I do not consider that this policy can properly cover the creation of new dwellings at the same time as providing policy guidance for domestic extensions, where the residential uses already been established. Windfall development is defined as sites which are not specifically identified in the development plan.
116. The policy accepts when windfall sites which fall within the limits of development and outside these village envelopes, on brownfield sites or through the conversion of appropriate rural buildings unless that building is already in business use.
117. I consider that the policy meets the basic conditions but that reference to extensions should be omitted.

#### *Recommendation*

***After “redevelopment” insert “or” and delete “or extension”.***

#### Policy HS6: Housing Development

118. I have found that this policy somewhat conflicted, in that it acknowledges the need, as set out in the NPPF, for development to make efficient use of land but it also requires the densities should be comparable with adjacent development. The plan’s rationale is to “maintain the character and distinctiveness of the location.”
119. The NPPF, in paragraph 119, refers to development making efficient use of the land... “whilst safeguarding and improving the environment”. Therefore, I will be proposing that the policy should promote the efficient use of land so long as the development maintains the character and distinctiveness of the locality. I consider that this would then meet the ambitions of the Secretary of State, which are repeated in paragraph 130c) of the NPPF, but rather than slavishly replicating adjoining development’s density, will allow development which makes effective use of land, without having a detrimental impact on the character of the area.

#### *Recommendation*

***Replace the policy with “The layout of new housing should make efficient and effective use of the site as long as it does not detract from the character and distinctiveness of the locality.”***

## Site Specific Policy 1 (SSP1) – Land adjacent to the Feoffee Cottages, Walkhurst Road

120. I am very conscious that Tunbridge Wells Borough Council has already resolved to grant permission for a hybrid application which would give outline planning permission for 13 market houses and full detailed planning permission for an additional 12 almshouses. I still see that there is a role for including this policy in the neighbourhood plan, as alternative proposals could come forward during the lifetime of the plan or alternatively the policy could guide the consideration of the reserved matters proposals for the market housing, which is intended to cross subsidise the delivery of the almshouses.
121. In terms of the detailed requirements of the policy, I consider the paragraph 3 dealing with parking, essentially repeats the policy already set out in Policy BD6 and Policy T4. Proposals need to comply with all relevant policies in the plan and there is no value in a policy duplicating general requirements set out elsewhere, albeit in a site-specific policy.
122. The neighbourhood plan takes a different approach to that set out in the Pre-Submission Local Plan by referring to a minimum 50-metre buffer to the woodland. That landscaped area is identified as an open space and landscape buffer in the Pre-Submission Local Plan. I propose to retain the wording as set out in the neighbourhood plan but will add to that the planting of the buffer area should seek to deliver ecologically enhancements, as that is not made clear in the policy as drafted. It may also be clearer if the map in Figure 25 should replicate that used in Map 52 of the Pre-Submission Local Plan which identifies the landscape buffer area in line with the approved scheme. I do not see that the enlargement of the site to the south is justified as under all scenarios it will be land which cannot be developed.
123. I consider the requirements set out in 8. and 10 are unnecessary as it is repeating policy already referred to in neighbourhood plan and is effectively a policy requiring compliance with another policy. This will equally apply to other allocation policies.
124. In terms of the reference to the setting of contributions, which are identified through the pre-application and application process, I do not consider that it can be a specific requirement policy requirement, as it is affectively offering a “blank check” and does not provide certainty as to what mitigation measures are required. If a legitimate matter that requires mitigation by the making of a contribution, then that could be valid, but it should not be a policy requirement covering unspecified matters.

### **Recommendations**

***That Figure 25 shows the split between the residential use and the open space/ leisure use in the same manner as set out in Map 52 of the Pre Submission Version of the Local Plan.***

***Delete requirements 3.,8. And 10.***

***In 4, after “details and planting of the buffer area” insert “, which will be expected to deliver biodiversity enhancements,”  
In the final paragraph regarding contributions, delete ii.***

### **Site-Specific Policy 2 (SSP2): Uphill, New Pond Road**

125. I consider the development of this site will form a logical extension to the village and its impact on the AONB will be mitigated by the screening along the site boundary.
126. In terms of the specific requirements of the policy, I suggest that it should be explicit in terms of requiring 40% affordable housing.
127. My comments regarding the parking requirements apply equally to this policy. I would also recommend that reference to the MAGIC website is removed, as that is a mapping tool of environmental constraints, not the mechanism for the designation of BAP priority habitats.
128. As previously, I would recommend that the provision for collecting unspecified further contributions be removed. I also note that the on-site provision of a children’s play area is not included in the neighbourhood plan, which instead seeks a contribution to the enhancement of existing playgrounds in the village and I believe that this is a matter which can be left to local determination.

### **Recommendations**

***In requirement 1. after “with” insert “40%”***

***Delete requirement 3 and 13***

***In requirement 6. replace “the MAGIC database identified” with “land has been identified with”***

***In the final paragraph regarding contributions, delete iv.***

### **Site-Specific Policy (SSP3): Land at Benenden Hospital, South East Quadrant**

129. This site and the adjacent North-East Quadrant of the hospital site took up most of the time at the hearing and many of the issues have already been covered elsewhere in this report.
130. In my deliberations, I have placed considerable importance on the fact that there is an extant planning permission granted, initially in 2013, for the construction of 24 dwellings on part of the South East Quadrant site, which was an element of the comprehensive package of development put forward when Benenden Hospital was consolidated and upgraded, concentrated in the south-west corner of the hospital complex. As a result of that development, the South East Quadrant is no longer required to be used for hospital uses and outline planning permission covering most of that site was granted, for residential purposes. That consent did not include the northern section of the site where the intention at that time was to retain buildings in hotel use for visitors.
131. The planning permission specifically allowed for the demolition of the Garland Wing, notwithstanding its more recent designation as a non-

- designated heritage asset. I am aware that there is an orchestrated campaign to see the building retained, but because of the extant consent, it must be accepted that the building can legitimately be demolished at any time. The only way that demolition could be legally prevented would be for the building to be added to the statutory list of building of architectural and historic interest. I have also been told that a recent request for the building's spot listing was rejected by Historic England.
132. The remainder of the site is made up of a mixture of buildings of mediocre quality and none of which come close to the architectural quality of the Garland Wing. I have noted that the draft local plan's proposals require, notwithstanding the consent for its demolition, that applicants are required to submit an assessment of the feasibility of retaining the wing. Despite the weakness of the Borough Council's position, due to the implications of the planning consent, I concur that would be a desirable outcome, so that at least the feasibility of the building's conversion can be tested. However, it must be acknowledged that the building could be lawfully demolished tomorrow without any additional planning control.
133. I am satisfied that the buildings on the site are redundant and the site can be described as previously developed land. I am also conscious that the definition in the NPPF's Glossary refers also to the curtilage of the developed land, but importantly it is caveated by the wording in parenthesis "(although it should not be assumed that the whole of the curtilage should be developed)". This is an important factor in terms of the parts of the site which are designated as a local wildlife site. The fact that the areas within the site boundary lies within the curtilage does not imply the entire site should be developed residentially.
134. The Pre-Submission version of the Local Plan adopts a different approach to the neighbourhood plan, by excluding from the allocation, the open area to the south of the Garland Wing. The neighbourhood plan has chosen to include it as part of the residential allocation, but with the specific intention to impose a policy requirement so that the Local Wildlife Site part of the site can be protected from development by the policy. I do consider this to be a compelling argument, as the same situation relates to the more northerly elements of the local wildlife site, which are now included within both the neighbourhood plan allocation site and the Pre-Submission Local Plan's allocation, but incidentally are not subject to the previous planning consent. If the logic of omitting the southern land from the allocation is sound, the same argument would apply to other parts of the local wildlife site in the South East Quadrant. I am not recommending that the neighbourhood plan allocation boundary for this site needs to be altered to match the allocation in the Pre Submission version of the Local Plan.
135. That will have implications for the likely capacity of the development. The extent of the local wildlife site towards the northern part of the site is not insignificant and it does not appear to have been seen as a such an important

- constraint as the southern part or at least taken into consideration on the illustrative layout I have been presented with. It appears that this part of the hospital is important enough to be designated as a local wildlife site, especially for its fungi, which I understand is of national importance.
136. I am not necessarily convinced that this issue has been fully considered especially when considering the impact of the conservation of the LWS on the likely residential capacity of the South East Quadrant. I cannot see that the LWS site with its grassland fungi could be appropriately protected if it were to be part of the housing development or incorporated into peoples' gardens. I also heard that the Parish Council's aspiration as those protected areas should not be used for amenity purposes.
137. I consider that the policy's aspirations towards the local wildlife site are robust, as set out in requirement 9) and I accept that this is a matter that will be a significant issue that will have to be properly addressed at the masterplanning stage. However, I fear that if the importance of protecting the LWS gets the attention it deserves, then it could have an effect upon how many units can be achieved. The actual figures will of course depend on the split between larger and smaller units, which come forward at detailed planning stage. However, to leave the policy as providing a range of 22 to 25 units on top of the 24 already approved, could put undue pressure on the protection of the local wildlife site. I am therefore proposing that the policy should depart from the approach set out in the other allocations and instead of a range, the capacity should be quoted as "up to 25 units"
138. At the hearing, I led a discussion on the difference in approach to the question of the supporting facilities for residential use. Whilst the neighbourhood plan policy promotes the provision of an independent retail building and community building, it quickly became evident that the Parish Council acknowledges that a more viable solution would be for residents to be allowed to use existing facilities, particularly bearing in mind the relatively limited scale of residential development, being proposed.
139. The approach adopted by Borough Council, is to facilitate the use of hospital facilities, with the added expectation that the hospital café could be encouraged to offer a selection of day-to-day items which would be available to local residents, as well as staff and visitors. This had been accepted by the Benenden Healthcare Society, who also indicated that it would also accept the possibility of residents having access to the hospital chapel as a community building. I note that the extant planning consent requires the public usage of the tennis courts, which can be taken forward in terms of re-provision of the existing recreational facilities which will need to be carried out when the existing courts are developed under the terms of Policy SSP4.
140. At the hearing, I heard the concerns of the High Weald AONB Unit regarding the possible impact of the residential use of this site, on the setting of the AONB, but I find that its position is significantly weakened by the extant planning consent on the site, which includes the demolition of the Garland

Wing. I heard representations that housing would have, what was described as a suburbanising effect, but beyond the illustrative drawings submitted with the outline consent on the smaller site and a more recent layout contained within the landscape assessment, submitted to the hearing as part of the evidence of the Benenden Healthcare Society, there are no concrete proposals upon which to base that conclusion. I also heard from the Borough Council that studies prepared as part of the evidence base for the local plan, looking at the impact of the allocations on the AONB, concluded that there would be a positive impact. I have also drawn some comfort from the updated landscape appraisal submitted to the hearing by the Benenden Healthcare Society.

141. These will be matters that can be more fully addressed as part of the required masterplanning exercise which can also pay particular regard to the updated NPPF advice in paragraph 176 which has been highlighted by the AONB Unit and the Friends of East End, the Secretary of State now says that where development is taking place, in the setting of the AONB, that development should be sensitively located and designed to avoid *or minimise adverse* impacts on the designated areas.
142. Representations had been made by the adjacent Biddenden Parish Council who expressed concerns regarding the ability of the sewer system to cope with the additional homes being planned. On that point I gather that Southern Water's own representations, requiring the inclusion of a clause into the policy which would ensure that occupational development be aligned to the delivery of sewerage infrastructure. I will be recommending the inclusion of that requirement within my recommendations.
143. Biddenden Parish Council was also concerned regarding the traffic implications of the hospital allocations, particularly the impacts on the Castleton Oaks crossroads and also on Woolpack Corner. This prompted my invitation to both the Parish Council and Kent County Council as Highway Authority. From its pre hearing statement, I learnt that the County Council had already approved a scheme to carry out safety improvements to Castleton Oak crossroads in the coming months. I also sought confirmation from the County Council's representative as to whether he considered that the cumulative residual impact of on the road network, as a result of the allocations would be severe. This is the test set out in paragraph 111 of the NPPF. I was told that the County Council did not consider that the implications would be significant and for that reason it had not opposed the allocations at East End.
144. The Highway Authority's conclusion did not come as a surprise to me, bearing in mind that as a baseline fall-back position, the existing buildings could theoretically be reused for their existing uses e.g. as a hotel or for hospital uses. Alternatively, as a matter of planning principle, the buildings could be converted to residential use under the provisions of paragraph 80c)

of the NPPF. Either of those scenarios would create additional traffic generation from the site.

145. In my Initial comments document, I sought an indication from Savills, the agents for the site owners, as to what they felt the likely capacity of the site would be, if the existing buildings on the site were to be converted to residential use. Whilst I appreciate that no substantive work had been done in investigating the option, I was advised that in their view the site could be converted to approximately 40 to 50 new homes.

### **Recommendations**

***In the second paragraph, replace “an additional number of residential units of 22-25” with “up to an additional 25 units”***

***In the second sentence, replace “a total of 46-49” with “up to 49”***

***In the fifth paragraph after “Masterplan” replace “must” with “should ideally”***

***In 1. replace “of an additional 22-25 C3 dwellings” with “up to 25 additional C3 dwellings, which will be in addition to the 24 dwellings already approved on part of this allocation site” and insert 30% before “affordable housing”***

***Delete 3. and 13. as duplication of other policy***

***Replace 9. with “A management plan shall be submitted outlining proposals for the ongoing protection and enhancement of all the LWSs and once approved, the future management of the site shall be carried out in accordance with that plan, to protect the significance of the designated LWS in terms of its biodiversity”***

***In 10. delete all text after “remodelling” and insert “as set out in a Construction Management Plan”***

***Delete 12. and 14.***

***Insert a new requirement to state, “Any proposals shall include an assessment of the feasibility of retaining the Garland Wing as part of the redevelopment of the site, which could include refurbishment and conversion of this building to provide separate residential units.***

***Insert a policy requirement “An archaeological assessment of the site to be carried out”***

***Insert another new policy requirement “The occupation of the development should be phased to align with the delivery of improved sewerage infrastructure, in liaison with the service provider”***

***In the emboldened paragraph replace “contributions” with “planning obligations”***

***Delete ii.***

***Replace iv. with “Means to secure the public use of the hospital café and the provision of a small publicly accessible retail outlet within the existing hospital building for a minimum of 10 years, from the occupation of 50% of the gross residential units on the allocation site”***

***Amend vi., before “minibus” insert “a financial contribution to fund the purchase and ongoing maintenance of a” and after “Benenden Primary***

**School” replace “and provide funding to maintain and” and insert “to”. Delete the final sentence and replace with – “This service to be continued for 10 years from the occupation of 50% of the gross residential units on the allocation site”**

**In vii., delete the second sentence**

**Delete viii.**

#### **Site-Specific Policy 4 (SSP4): Land at Benenden Hospital, North East Quadrant**

146. The plan propose that the land allocated could provide 20 to 25 residential use units. The neighbourhood plan, in paragraph 2.9.4.1, refers to the plan either supporting refurbishment of the existing dwellings or redevelopment. The policy could be made clearer as to the fact that reference to the 20 to 25 dwellings is a net increase figure. The allocation site includes the car park and the tennis courts. I am satisfied that the whole site can be classed as previously developed land. I am not treating land at East End as a “built-up area”, where residential gardens, parks and recreation grounds are excluded from being treated as a brownfield site, according to the definition in the NPPF Glossary.
147. In the round, I consider that the residential usage of this site in a more efficient manner, can be considered as delivering sustainable development.
148. There is a mismatch between the extent of the allocation site as set in the neighbourhood plan and the area allocated for residential use in the Pre-Submission Local Plan. I understand from the Parish Council that its intention is for the boundaries to be consistent with those being proposed in the emerging local plan and I will be recommending revision to the map set out in Figure 33 to replicate the map shown in the draft Local Plan.
149. In terms of the requirement for planning contributions, I propose to remove reference to the speed limit reduction, as I do not believe that it is a planning requirement, which if not granted under the traffic regulations, would render the development unacceptable in planning terms. I will amend the reference to the provision of premises for a café and small room retail units so as to be consistent with the South East Quadrant development site.
150. At the hearing it was agreed that a more practical solution to ensuring school transport for the children attending the local primary school would be for the developer to make a contribution to the purchase of a minibus by the school.
151. I would also recommend the criterion viii also be deleted. There are elements of the Pre-Submission Local Plan allocation policy which if included with in the neighbourhood plan, could improve the neighbourhood plan’s allocation. This includes the requirement for the garage block to be demolished and the addition of the requirement that the sewage infrastructure be enhanced before the development is occupied and also the need for an archaeological assessment.



## **Recommendations**

**Amend the map on Figure 33 to accord with Map 54 of the draft Tunbridge Wells Local Plan – Pre-Submission version**

**At the end of the second paragraph insert “in addition to the 18 dwellings currently on the site, which may also be redeveloped or refurbished”**

**In the fifth paragraph after “Masterplan” replace “must” with “should ideally”**

**In 1. After “C3” insert “additional” and insert “30%” before “affordable housing”**

**In 8. delete all text after “remodelling” and insert “as set out in a Construction Management Plan”**

**Delete 9.**

**Replace 12 and 13. with “A management plan shall be submitted outlining proposals for the ongoing protection and enhancement of the LWS and once approved, the future management of the site shall be carried out in accordance with that plan, to protect the significance of the designated LWS in terms of its biodiversity”**

**Insert a policy requirement “An archaeological assessment of the site to be carried out”**

**Insert another new policy requirement “The occupation of the development should be phased to align with the delivery of improved sewerage infrastructure, in liaison with the service provider”**

**In the emboldened paragraph replace “contributions” with “planning obligations”**

**Delete ii.**

**Replace iv. with “Means to secure the public use of the hospital café and the provision of a small publicly accessible retail outlet within the existing hospital building for a minimum of 10 years, from the occupation of 50% of the gross residential units on the allocation site”**

**Amend vi., before “minibus” inserts “a financial contribution to fund the purchase and ongoing maintenance of a” and after “Benenden Primary School” replace “and provide funding to maintain and” and insert “to”. Delete the final sentence and replace with – “This service to be continued for 10 years from the occupation of 50% of the gross residential units on the allocation site”**

**In vii., delete the second sentence**

**Delete viii.**

## **Policy BD1: General Design Policy**

152. The first part of the policy is consistent with the design expectation set out by the Secretary of State, in Chapter 12 of the NPPF.
153. The second part of the policy places an expectation on the designer to demonstrate how they are sought to meet the three criteria as set out in the policy. However only development taking place within a conservation area or

schemes which constitute “major development” are required to submit a Design and Access Statement. I propose to amend the requirement so that the development should meet the three requirements rather than placing the obligation on the applicant to demonstrate how they have been met.

154. The Borough Council has usefully suggested in its Regulation 16 representations that the local distinctiveness requirements should point to published guidance such as the High Weald Design Guide and the Benenden Character Assessment.

### **Recommendations**

***Replace the first line of the second paragraph to read “Developments will be expected to:”***

***Omit from the third bullet, “create designs that are” and at the end of third of the sentence, insert “Design Guide and the Benenden Character Assessment***

### **Policy BD2: General Appearance**

155. This policy refers to developers having to reference supporting documents BD3, BD 4 and BD5. I consider it would improve the legibility of the policy to actually describe the specific documents, namely the Benenden Character Assessment, Summary of Materials Used in Existing Housing Stock and Survey Results of Houses.
156. I consider that the applicant should be encouraged to refer to these documents as well as the High Weald Design Guide when preparing the scheme.
157. I believe the policy regarding innovative, high-quality, exceptional modern design should be positively supportive, in line with such Secretary of State policy as set out in paragraph 131 of the NPPF rather by vague reference to such schemes “being considered on its own merits by the planning process.” That statement is not actually a statement of planning policy, but rather it describes the process by which all planning applications are to be considered.
158. The Borough Council has pointed out that the requirements for chimneys to be a working chimney could prevent it being used, say, as a “stove flue”. I would recommend that the policy be removed as planning control should be related to the appearance rather than necessarily the functionality of the buildings elements.
159. The requirement for all materials used in construction are to be from sustainable sources, whilst desirable, is totally unenforceable. I therefore will be recommending that the reference be changed from “must” to “will be encouraged”.

### **Recommendations**

***In the first paragraph, replace “BDA3, BDA4 and BDA5” with “the Benenden Character Assessment, Summary of Materials Used in Existing Housing Stock and Survey Results of Houses.”***

***In c) replace all the text after” area” and insert “will be encouraged”  
Delete f)***

***In h) replace “must” with “will be encouraged to”***

### **Policy BD3: Layout**

160. I have no comments to make on this policy except that I believe, rather than just setting out the eight requirements, there should be an introductory sentence and I will propose appropriate wording.

### **Recommendations**

***At the start of the policy, insert “Housing layouts will be expected to meet the following requirements”***

***In b) replace “encouraged” with “expected”***

### **Policy BD4: Landscaping**

161. As above, the comprehension of the policy could be improved by the addition of an introductory sentence. Beyond that I have no comments to make on this policy.

### **Recommendations**

***At the start of the policy, insert “Housing layouts will be expected to meet the following requirements”***

***In e) replace “encouraged” with “expected”***

### **Policy BD5: Dark Skies**

162. This policy accords with the aspirations set out in paragraph 180 c) of the NPPF.

163. I do not consider that it is appropriate for a policy to require the imposition of conditions related to the ongoing maintenance of lighting or controls of additional exterior lighting, as often these works would not require planning consent. The final sentence of the policy is not actually a policy that can be used to determine the prior version but rather is the statement of the intentions of the Parish Council and I would recommend that it be moved to supporting text.

### **Recommendations**

***Delete f)***

***Delete the final paragraph***

### **Policy BD6: Parking**

164. I note that the parking standards are broadly in line with the standards set out in the Pre-Submission version of the Tunbridge Wells Local Plan. It appears the only difference relates to the parking requirement for two bed

units be raised from 1.5 spaces per unit to 2 spaces. I believe that higher standards can be justified in regard to Benenden parish's rural location and the fact that most households with two bedrooms will require access to 2 cars.

165. I find that the policy meets basic conditions.

#### **Policy BD7: Footpaths**

166. I consider this is to be a locally distinctive policy which reflects the characteristics of the parish and meet basic conditions.

#### **Policy BD8: Materials and Technology**

167. In a Written Statement to the House of Commons dated 25<sup>th</sup> March 2015, the Secretary of State said that neighbourhood plans should not set any additional local technical standards or requirements related to the construction, internal layout or performance of new dwellings. In requirement a), through the use of the term "must", the plan is imposing what is an additional requirement. I will propose that the wording be changed so that it will read as "will be encouraged to".

168. I do not consider requirement c) is actually setting out a policy, it is merely stating that the impact of solar panels on heritage assets will be assessed at the planning stage. I would recommend the sentence be removed from the actual planning policy, but moved to the supporting text along with requirement d).

#### **Recommendations**

***In a) replace "must be constructed" with "is encouraged to"  
Delete c) and d)***

#### **Policy BE1: Rural Industries**

169. The planning system has only limited scope when it comes to supporting farming and forestry operations. Such operations take place without recourse to having to make a planning application. The neighbourhood plan is therefore not able to positively offer support to such operations, except in the case where planning permission is required. Similarly, the land management practices are beyond the scope of planning control. I will therefore be recommending the policy be deleted as it does not constitute a policy for the use and development of land that can be used to determine a planning application but I recommend that it can be retained within the supporting text.

#### **Recommendation**

***That the policy be deleted***

### **Policy BE2: Current Major Employers/Businesses in the Parish**

170. My only issue with this policy as drafted, is that the support should be caveated by, not just compliance with other neighbourhood plan policies, but all development plan policies.

#### **Recommendation**

***Replace “BNDP” with “development plan”***

### **Policy BE3: Retaining Existing Commercial Areas**

171. There are two issues arising from this policy. Figure 37 indicates five commercial areas but in my view, Benenden School, whilst being a major employer, would not be described as a commercial area. I will also recommend the removal of the Benenden Hospital site from the definition of being a commercial area. I will be recommending that the two sites are removed from the map of existing commercial areas.

#### **Recommendation**

***Remove Benenden School and Benenden Hospital from Figure 37***

### **Policy BE4: Shops and Public Houses**

172. Since September 2020 the introduction of changes to the Town and Country Planning (Use Classes) Order, the Benenden village shop will now be included within Use Class F2 – a local community use. The other shops within the village will I believe fall within the new Use Class E which will allow them to change from retail to a range of other uses within the commercial, business and service use class which includes changes of use from or to restaurants, medical facilities, offices and creches as examples of uses that can be introduced without constituting “development”.
173. The objective of the policy can be retained but only to the extent that planning permission is required.

#### **Recommendation**

***After “loss” insert “(to the extent that planning permission is required)”***

### **Policy BE5: Community Services**

174. The only issue is that the sentence in the second paragraph “The support for existing community facilities on the maps (Figures 44 and 45) will be maintained” is ambiguous as a statement of planning policy. A planning policy cannot actually maintain support for a facility, but it can include presumption in favour of the facilities’ retention so long as it meets the two criteria which are set out in the policy.

### **Recommendation**

**Delete all the text after “parish” in the first paragraph and replace the first sentence of the second paragraph with “and the community facilities identified in Figures 44 and 45 will be expected to be retained.”**

### **Policy BE6: Redevelopment of Redundant Buildings**

175. Whilst Policy HS5 supports the conversion of redundant rural buildings, this policy also offers support for a conversion from existing agricultural, rural or other buildings for business, recreation and tourism uses. I am happy that the policy meets basic conditions.

### **Policy BE7: Encouraging the Right future business**

176. The only ambiguity in the policy relates to the designated commercial areas. I clarified with the Parish Council that it refers to the locations shown in Figure 37. I will add that to provide clarity. Beyond that I consider the policy meets basic conditions.

### **Recommendation**

**In a) after “commercial areas” insert “as shown in Figure 37”**

### **Policy T1: Car- free Connectivity**

177. This policy seeks contributions from any housing or commercial developments to appropriate all-weather routes using existing rights of way. It is appropriate for new development to make a contribution so long as it meets the three tests that are in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I consider it will be clearer for all parties if these three criteria, all of which must be satisfied were to be set out in the policy.

### **Recommendation**

**Delete the text after “meeting” and inserting “the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 122 namely, that the contribution is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development”**

### **Policy T2: Improving Road Safety and Impact of Traffic**

178. I do not consider it necessary for every development have to *demonstrate* that its highway access is safe. That is part of the development management process assessment which will be carried out by the Highways Authority’s assessment as a consultee. The installation of traffic management measures, would also be a matter that is actually covered by traffic regulation order, but a contribution to those works can be required via a planning obligation. I will recommend the redrafting of the policy in a positive manner.

179. The requirement to submit a transport assessment is again, not something that can be required by neighbourhood plan policy. The circumstances where they are required are set out in the Borough Council's Local Validation Checklist as required by the Town and Country Planning (Development Management Procedures) Order 2019. I will reword the policy to say that we have transport assessment has identified a negative impact on the non-motorised users, mitigation measures must either be provided or at least be funded by the developer.

#### **Recommendations**

**Replace in the first paragraph "required" with "supported where the Highway Authority is satisfied that the applicant has been able to"**  
**After the colon, replace "this" with "where necessary, this may include contributing to the installation of measures which include"**  
**In the final paragraph, delete the first sentence and in the second sentence, after "identified", insert "for example within a Transport Assessment"**

#### **Policy T3: Community Cohesion and Recreation Facilities**

180. Until such time as the Borough Council introduces a Community Infrastructure Levy Scheme, planning contributions can only be sought through planning obligations or Section 106 Agreements and these will need to meet the 3 tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. If the project can be shown to meet the tests, financial contributions can be sought.

#### **Recommendations**

**In the first sentence, after "required" insert "where it meets the 3 tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010"**  
**At the end of the second sentence, add "again where the contributions will meet the above 3 tests"**

#### **Policy T4: Renewable Energy and Low Emission Technology**

181. Again, the issue of seeking contributions to projects must be shown to meet the three tests set out in Regulation 122. If and when CIL has been introduced, there will be scope for the Parish Council to use its 25% CIL receipts to fund such schemes.
182. The required hedge planting can be achieved as part of a landscaping scheme and does not need to be indirectly funded as a project.
183. I do not consider that a proposal for developers to contribute to electric car charging points at Benenden Hospital would need the Regulation 122 tests as the hospital should be providing such facilities for its employees and visitors. I will make appropriate modifications.

#### **Recommendations**

**In the first sentence after "and" insert "where it meets the Regulation 122 of the Community Infrastructure Levy Regulations tests"**

**Delete the final bullet point**

**In the final paragraph insert “and” after “Benenden Village Hall car park” and**

**omit “Benenden Hospitals car parks”**

### **Policy T5: Infrastructure, Broadband and Mobile**

184. I note that the Pre-Submission Local Plan has a comprehensive infrastructure policy but that cannot be relied upon, as it is only emerging not adopted policy. The plan can only see contributions to new amenities, infrastructure and public transport where a need arises as a direct result of the development. I will recommend appropriate wording.

#### **Recommendations**

**Replace “as agreed with the Parish, Borough and County Councils with “which arise as a direct result of the development.”**

**In the final sentence after “will” add “be expected to”**

### **The Referendum Area**

185. 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.
186. I had received representation on behalf of the neighbouring Biddenden Parish Council that all the residents of that parish should be included within the referendum. Whilst it was their traffic concerns which I believe led to that request, I do not see that would be justified and I believe would be unprecedented.
187. However, I am very conscious that the allocation at the north east quadrant of Benenden Hospital site is very close to the borough and parish boundary and that a relatively small number of properties which lie across the parish boundary within Ashford Borough will be directly affected by that allocation and should be included within the referendum.
188. I did consider whether other properties further down Mockbeggar Lane, who have made representations on this matter, and other roads outside Benenden parish should be included, but I have concluded that any increase in traffic levels beyond what could otherwise take place on the site will be marginal and in terms of physical development their properties are unlikely to directly impacted upon, for example in terms of the visibility of the developments from their houses, to such an extent as to warrant their inclusion. Therefore, I am recommending that the following properties set out in the next paragraph should be added to the area of the Benenden Neighbourhood Plan which was designated by Tunbridge Wells Borough Council on 31<sup>st</sup> August 2017 as the appropriate area for the referendum to be held.
189. These properties, all of which are in Mockbeggar Lane, are



- Walden
- Trump Farm
- New Mockbeggar
- Wymere
- Corydon
- Tall Trees
- Jacobs Place

## Summary

190. I congratulate Benenden Parish Council on producing this locally distinctive neighbourhood plan. It is clear that a lot of hard work has been carried out by a group of volunteers who have taken on what some may feel as been a thankless task.
191. This has proved to be a controversial exercise, based on the level of representations received. The extent of the opposition to the East End proposals will no doubt be tested through the referendum vote. However, I have found the basis for the decisions taken have been robust and based on sound planning principles, particularly the extent concentrating development on brownfield sites and the existence of extant planning permissions on one of the key sites. I have, however, felt the need to place more weight on the protection of the important habitat contained within the LWS, especially in the northern part of the South East Quadrant which is now included in the development area and this may, in time, prove, through giving proper weight to the biodiversity protection measures, through the masterplanning process, to have an impact on the quantum of additional development that this allocation can actually deliver.
192. 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.
193. I am therefore delighted to recommend to Tunbridge Wells Borough Council that the Benenden Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI  
 John Slater Planning Ltd  
 31<sup>st</sup> August 2021