

# **Crowhurst**

## **Neighbourhood Development Plan**

### **Submission Version 2018 – 2028**

**Report of Examination**

**March 2019**

**Undertaken for Rother District Council with the support of  
Crowhurst Parish Council on the submission version of the plan.**



**Independent Examiner:**

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### **Abbreviations used in the text of this report:**

The Crowhurst Neighbourhood Development Plan is referred to as ‘the Plan’ or ‘CNDP’.

Crowhurst Parish Council is abbreviated to ‘Crowhurst PC’.

Rother District Council is abbreviated to ‘Rother DC’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Rother Core Strategy 2014 is abbreviated to ‘Core Strategy’.

The Crowhurst Landscape Character, Sensitivity and Capacity Assessment is shown as ‘CLCSCA’

Regulation 14 of the Neighbourhood Planning Regulations 2012 is abbreviated to ‘Reg14’

Regulation 16 of the Neighbourhood Planning Regulations 2012 is abbreviated to ‘Reg16’

The High Weald Area of Outstanding Natural Beauty is abbreviated to AONB.

## Summary

- I have undertaken the examination of the Crowhurst Neighbourhood Development Plan during March 2019 and detail the results of that examination in this report.
- The Parish Council and Steering Group have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan is well evidenced with a particularly useful 'Crowhurst Landscape Character, Sensitivity and Capacity Study' commissioned to inform policy and allocations. It sets out policies that are directly relevant to the strategic policy of the development plan and the location of much of the neighbourhood area within the High Weald AONB. The Rother Local Plan Core Strategy 2014 provides a comprehensive and strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

**Acknowledgements:** Thanks to Local Authority and qualifying body staff for their assistance with this examination. My compliments to the local community volunteers and Crowhurst Parish Council, who have produced a well-evidenced and readable Plan.

# 1. Introduction and Background

## 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy and site allocations in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Crowhurst that is the Crowhurst Parish Council. Drawing up the Neighbourhood Plan was undertaken by the Neighbourhood Plan Steering Group, working to the Parish Council.

## 1.2 Independent Examination

1.2.1 Once Crowhurst PC had prepared their neighbourhood plan and consulted on it, they submitted it to Rother DC. After publicising the plan with a further opportunity for comment, Rother DC (the local planning authority) were required to appoint an Independent Examiner, with the agreement of Crowhurst PC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Crowhurst and Rother DC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The CNDP complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on the 24<sup>th</sup> November 2015 by Rother DC and the plan relates only to land within the Neighbourhood Area. It specifies the period during which it has effect as 2018 – 2028 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Crowhurst to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

## 1.3 Planning Policy Context

1.3.1 The development plan for Rother District Council, not including documents relating to excluded mineral and waste development, are saved policies from the Rother District Local Plan 2006 and the Rother Local Plan Core Strategy 2014. Strategic policies are those in the Core Strategy.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented. Although the NPPF has been revised recently, that document makes clear (para 214 of Appendix 1 and footnote 69) that neighbourhood plans submitted to the LPA before 24<sup>th</sup> January 2019 will need to have regard to the previous 2012 version of the NPPF. The CNDP was submitted in November 2018, so that it will need to have regard to the 2012 version of the NPPF. For future clarity this version is indicated in the text of this report.

1.3.3 During my examination of the CNDP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG) 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- March 2015 Written Ministerial Statement
- Submission version of the Crowhurst Neighbourhood Development Plan (CNDP)
- Crowhurst Landscape Character, Sensitivity and Capacity Assessment Oct 2017
- Crowhurst – A Rural Village Nov 2017
- Crowhurst Heritage and Character Assessment Sept 2017
- CNDP Site Assessment Paper Jan 2017
- The Basic Conditions Statement submitted with the CNDP
- The Consultation Statement submitted with the CNDP
- The SEA Environmental Report for the CNDP
- HRA screening letter June 2018 from Rother DC
- Neighbourhood Area Designation Map (in CNDP)
- Rother District Local Plan 2006 saved policies
- Rother Local Plan Core Strategy 2014
- HRA Pre-submission Rother DaSA Plan AECOM Sept 2018
- Representations received during the publicity period (reg16 consultation)

## 2. Plan Preparation and Consultation

### 2.1 Pre-submission Process and Consultation

2.1.1 Crowhurst is a village in East Sussex, to the north west of Hastings, and north of St Leonards and located within Rother District. The wider Parish is mainly rural in nature, and most of the village and northern half of the parish is within the High Weald AONB. Crowhurst has a railway station with a regular service between London and Hastings, and at the 2011 Census there were 891 residents in the parish.

2.1.2 The Crowhurst Neighbourhood Plan Group was set up by the Parish Council to gather views, develop options and draft the Plan in consultation with residents and stakeholders. There were several topic working groups, as well as an overall steering group. An innovative idea of 'Street Champions' was used to widen knowledge of, and participation in, the Plan process. Minutes of Steering Group meetings were made available on the website, and the meetings were open to the public.

2.1.3 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation, and it is also summarised in the Plan. A guiding Communication and Engagement Strategy was created with a key aim of involving as many of the community as possible. An initial questionnaire survey gathered views and priorities and informed the draft vision for further discussion. Holding stalls at local events helped to generate interest, and visits to the Brownies group and the Primary School enabled the views of the youngest members of the community to be heard.

2.1.4 Site selection work began with a call for sites, which was followed by shortlisting and then consultation on the shortlist to gauge local preferences. This was undertaken over four days at local venues. Further work on site assessment and development briefs for the 3 sites chosen was also consulted on in the autumn of the same year. Work with a local community college gathered the views of students on sites and housing needs.

2.1.5 As required by regulation 14 (Reg14) of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Crowhurst NDP ran from the 16<sup>th</sup> January to the 28<sup>th</sup> February 2018. The draft Plan and other documents were available at this time on the NDP website, the Parish Council website and via the Rother DC website. Flyers about the consultation were delivered to every household, and 3 exhibitions were held to publicise the

consultation and the Plan. A hardcopy of the Plan was available in St Georges Church, and the relevant Statutory Consultees and other stakeholders were also consulted.

2.1.6 Twenty six representations were received from residents, landowners, statutory bodies and businesses during the Reg14 consultation period. Although residents and landowners are not identified by name in the Consultation Report, the qualifying body advises that original comments were not anonymous and can be identified if required. The High Weald AONB Unit and Natural England both raised issues of potential impact of sites chosen on the AONB needing to be better considered and justified. The report in the Consultation Statement details that this has now been done, and explains in more detail changes that were made to the original sites offered to reduce impact. Many other amendments have been made to the Plan as a result of constructive suggestions for changes at Reg14 and a subsequent health check.

2.1.7 I am satisfied that due process has been followed during the consultation undertaken on the Plan and amendments made. The Consultation Statement details extensive and sometimes innovative consultation activities, and the record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.8 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion for HRA, an SEA Environmental Report and a plan showing the neighbourhood area was submitted to Rother District Council on the 13<sup>th</sup> November 2018.

## **2.2 Regulation 16 Consultation Responses**

2.2.1 Rother DC undertook the Reg16 consultation and publicity on the CNDP for seven weeks, from Friday the 7<sup>th</sup> December 2018 to Friday the 25<sup>th</sup> January 2019. Representations were received during this consultation from nine statutory consultees, one local business and five residents. Three statutory bodies had no specific comments to make on this Plan. Natural England, the High Weald AONB Unit and the Environment Agency offered general support for the Plan. The Residents were all objecting to aspects of the Plan and site allocations as were the other statutory bodies. Where these comments have raised issues that are pertinent to my consideration of whether the Plan meets the Basic Conditions, they are considered in sections 3 and 4 of this report below.

### 3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the CNDP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with and not breach European Union (EU) obligations including the habitats basic condition (2017 as amended) and comply with human rights law.

3.2 The CNDP has a section on Sustainability (4.1 page 33), which sets out how the Plan and its policies are reflecting the positive presumption in favour of sustainable development required by the NPPF while ensuring the full range of economic, environmental and social aspects of sustainability are covered. The Basic Conditions Statement evaluates in a table each policy's impact on the social, economic and environmental goals of sustainable development, and shows mostly positive or neutral impact. The SEA Report also concludes that the Plan will have a generally positive impact on sustainability. I accept therefore that the Plan does contribute to sustainable development in line with the Basic Conditions, and has demonstrated this well.

3.3 A screening opinion has been issued by Rother DC who assessed whether Habitat Regulations Assessment (HRA) was required for the CNDP. The Screening considered possible impact on European sites, in particular potential air quality impacts on the Ashdown Forest SAC. Given the small scale of development at Crowhurst, and the distance of this SAC from the Parish (approximately 25km), the screening conclusion is that:

“on the basis of the housing numbers advised, any likely significant effects upon European sites as a consequence of the Crowhurst Neighbourhood Plan, even in combination with other relevant plans and projects, can reasonably be screened out.”

The CNDP was also also screened out in the AECOM first stage HRA of the Rother DC Development and Site Allocation Plan (currently at examination), which also considered neighbourhood plans in development. The AECOM HRA report considered potential impact from the CNDP and concluded

that it, and the development proposed in it, was not likely to have a significant effect on European sites (page 26 AECOM Sept18 Report).

3.4 An SEA Environmental Report has been submitted with the CNDP. A draft version of this report was consulted on at Reg14 alongside the draft CNDP, and amendments made in the light of comments received. Strategic environmental assessment (SEA) was required for the Plan due to its potential impact on the High Weald AONB and the substantial number of natural and historic assets within the Parish. The SEA Report has considered options for policy issues such as the development boundary and site allocations and assessed the impact of the CNDP policies. It concludes that there are no likely significant effects on the environment as a result of the Plan (para 5.81). SEA and HRA are the main environmental requirements in EU law and Directives that neighbourhood plans need to comply with, and I am satisfied that the CNDP has complied with the Basic Conditions with regard to being compatible with EU obligations.

3.5 The CNDP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to consult with a wide cross-section of the community was appreciated.

## 4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the CNDP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF (2012 version) and relevant Ministerial Statements, and guidance in the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan, which in Rother DC are those in the Core Strategy. The phrase 'general conformity' allows for some flexibility. Although it is sensible for future-proofing the Plan that Crowhurst PC have also considered policies in the emerging Rother DaSA Local Plan, as it is not yet adopted I cannot formally assess compliance with it as a Basic Conditions issue. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The Plan reads well and it's layout and presentation is good. It has been very well evidenced, but references to the substantial evidence work are not immediately apparent or accessible, despite being referenced at several places in the text and even within policy (for example paras 4.2.3.1, 4.2.7.1, 4.3.2.8 and Policy CE1). It would be clearer for users of the Plan if a reference section listed them, preferably with links to where online they can be found. It is a requirement of neighbourhood plans that they are supported by, and justified with, robust, proportionate evidence [NPPG: ID 41-040-20160211] and this compliance with the Basic Conditions with regard to national planning guidance should be properly demonstrated and accessible in the CNDP. I recommend therefore that the Plan is modified as shown in Modification 1 in order that the evidence base for the Plan is properly acknowledged and accessible.

**Modification 1:** A Reference Section is recommended to be added to the CNDP listing the evidence base for the Plan with electronic links to documents. As a minimum the list should include those documents commissioned for the CNDP process specifically or drawn up by the steering group as follows: **‘Crowhurst Landscape Character, Sensitivity and Capacity Assessment’ Oct 2017; ‘Crowhurst – A Rural Village’ Nov 2017; ‘Crowhurst Heritage and Character Assessment’ Sept2017; ‘CNDP Site Assessment Paper’ Jan 2017; ‘CNDP Watercourses and Flooding Description’ Nov 2017; Local Green Space Description table; and ‘CNDP Environmental Description’ Nov 2017.**

**4.4 Policy CS1 - Development Boundary** Complies with the Basic Conditions.

**4.5 Policy CE1 - Landscape Character of Crowhurst** The designation of Open/Natural Space Sites has been objected to at the Reg16 stage by Rother DC as having an inadequate evidence base. One designation (ONS7) has been objected to as being farmland and not recreational land, although the Parish Council have clarified for me that the designation was not intended to imply sites were recreational space.

4.5.1 The evidence for the ‘identified protected village gaps’ in this policy is the CLCSCA, an evidence base that is a detailed assessment of landscape attributes and values in the Parish. The CLCSCA however refers to the designations as ‘key open countryside between settlements’, and on the Proposals Map of the Plan they are referred to as ‘Important Open Areas’. Consistency is needed between the Policy and the Proposals Map, and the phrase ‘Important Open Areas’ is more accurately reflecting the evidence of the CLCSCA, which has not specifically considered a designation of a settlement gap. The ‘important valley and village views’ have either been identified in this report or added by local survey. I accept that the proposed designations of important views and important open areas have the robust but proportionate evidence required by the NPPG.

4.5.2 The designation of ‘Open/Natural Space Sites’ seem to have been chosen for their role in giving the village their High Weald identity and to protect the tranquillity and rural setting of the village. Most of the proposed designations are within the AONB, so have the protection of that

important national landscape designation already. Additionally Policy EN1 in the Core Strategy offers protection of the open landscape between clearly defined settlements and settlement edges. Each site selected for designation has been described in a table that formed part of the evidence base, but the proposed choice of sites to be designated does not come from the professional CLCSCA or an alternative justification and evaluation in the text of the Plan. The evidence for designation of these sites as 'Open/Natural Space Sites' is not sufficiently robust. It does not meet the requirements of the NPPG regarding evidence, and thus the designation does not comply with the Basic Conditions. Removing the designation will not significantly reduce the intended protection, which already exists within the AONB, and is covered more generally in the Core Strategy.

4.5.3 For the clarity required of policy by the NPPG (ID 41-041-20140306), the designation of 'Important Open Areas' will need to be consistent between Policy CE1 and the Proposals Map. Protecting Local Green Spaces in this policy is not necessary, as they have protection in Policy CF3. Offering alternative protection in this policy to Local Green Spaces could cause unnecessary confusion. I therefore recommend that in order that Policy meets the Basic Conditions and complies with the NPPG with regard to robust evidence and clarity, it is modified as shown in Modification 2.

**Modification 2:** Policy CE1 (2) is recommended to be amended as follows:

..... "2. ~~It does not result in the erosion or loss of the identified protected village gaps~~ **Important Open Areas** as shown **on the Proposals Map and CNDP Map 2** ~~and important open/natural spaces as shown on CNDP Map 3, which give the village its High Weald identity and Local Green Spaces on CNDP Map 4;~~

3. ~~The development does not impact on important valley and village views as defined on the~~ **Proposals Map and CNDP Map 2;**" .....

CNDP Map 3 to be deleted as it is no longer needed, and the Proposals Map to be amended so that it no longer shows the designation 'Open/Natural Space'.

Paragraph 4.3.2.6 to be revised to no longer mention the protection of Open/Natural Space.

#### 4.6 Policy CE2 - The High Weald Area of Outstanding Natural Beauty (AONB)

Complies with the Basic Conditions.

**4.7 Policy CE3 – Biodiversity** – The County Council and Environment Agency supported this policy, the latter suggesting extra wording to point (1) to strengthen it. Extra policy is not normally written at examination, it will not have been subject to proper consultation and the examination must deal only with Basic Conditions issues. However the paragraph is currently not clear in its intent, which is a Basic Conditions issue. The NPPF (2012 para 154) and NPPG both require policy to be clear to decision makers so that it is applied consistently, and currently this very long sentence is muddled particularly around the issue of mitigation and compensation.

4.7.1 In order that the policy respects the need for a hierarchy of protection (NPPF 2012 para113), reference to the protection of habitat should be restricted to protected species only. Mitigation does not need to be specifically mentioned in point (1), as it is mentioned as possible in the NPPF (2012 para 118). A presumption in favour of the protection of nationally important habitat is referred to in the same paragraph of the NPPF, and Policy EN1 in the Core Strategy, specifically mentions protection of irreplaceable habitats such as Ancient Woodland. Thus a policy protecting them should not offer mitigation and compensation as an automatic possibility. Revised wording advised by the Environment Agency at Reg16, and agreed by the Qualifying Body in their response to those comments, is recommended to be added for extra force and clarity to the policy.

4.7.1 Rother DC object to the requirement in this policy that all development complete an environmental checklist connected to the CNDP. They point out that as currently worded Policy CE3 exceeds the Local List of Planning Application Requirements for Rother DC. This is also contrary to policy in the NPPF (2012 para 173) that policy requirements should not be too much of a burden on development. As currently worded the policy requirement is intended to apply to ‘any new development’, and is thus contrary to the Basic Conditions in that it has not had due regard to national policy.

4.7.2 In order that Policy CE3 meets the Basic Conditions with regard to the NPPF and the requirement for policy clarity, hierarchy of protection and not threatening viability, I recommend that it is altered as shown in Modification 3 overleaf.

**Modification 3:** Paragraph (1) of Policy CE3 to be amended as follows:

... “Development will not be supported where it adversely affects the ecological interests of the Fore Wood Reserve SSSI, Quarry Wood Nature Reserve, Combe Haven, Priority Habitats or areas with a Biodiversity Action Plan (BAP) or where development will affect the ecological integrity of the site, including ~~notable or protected species habitats. and such impacts cannot be mitigated or compensated for, commensurate with their importance to the wider ecological network~~”

Paragraph (2) of Policy CE3 to be amended to read “2. **Where appropriate, any** new development”

The first sentence of criteria (iii) of paragraph (2) to be amended as follows:

“Existing wildlife corridors should be ~~conserved and~~ retained, **buffered, enhanced, restored and strengthened** and new wildlife corridors should be created as part of the new development, where possible.”

The final paragraph of Policy CE3 to be amended as shown below, to show clearly where the checklist may be obtained from, and the wording make clear that there is no compulsion to do this.

“**Where appropriate, applicants for planning permission are encouraged to complete** ~~Completion of the CNDP Environment Planning Application checklist (Appendix ...). in the Environment Description in the Supplementary Documentation~~ **This will help ensure all Environmental Policies in the Neighbourhood Plan, the NPPF and the Core Strategy are considered prior to proposed developments.**”

The Checklist to be provided as an Appendix to the Plan.

**4.8 Policy CE4 – Natural Features** Objections to this policy have been made on the grounds that hedgerows are protected elsewhere and that the wording for protection of Ancient Woodlands needs strengthening. Hedgerows are a particular feature of the High Weald AONB, as evidenced in the CLCSCA and Natural England’s National Character Area quoted in it (paras 2.4-5), and emphasising the importance of these features locally is justified.

4.8.1 Policy EN1 of the Core Strategy requires the protection and wherever possible the enhancement of Ancient Woodland. As it currently reads, Policy CE4 is suggesting development adversely affecting Ancient Woodland and other nationally protected features, or requiring their removal, may be acceptable with mitigation. This would be a wholly exceptional circumstance, and

the policy needs to make clear that mitigation and compensatory measures are normally more appropriate for local features and not Ancient Woodland and other nationally protected features. In order that Policy CE4 complies with the development plan and the NPPF with regard to the protection of nationally important natural heritage, and complies with the Basic Conditions, I recommend that it is amended as shown in Modification 4.

**Modification 4:** The final paragraph of Policy CE4 to be amended as follows:

.... *“Where the benefits or need for the development are considered to justify the removal of ~~such~~ important **local** features, development will only be supported where appropriate mitigation and compensatory measures are put in place to address their removal. **This will not normally be appropriate for nationally protected features and Ancient Woodland.**”*

**4.9 Policy CE5 – Blue Infrastructure** The Environment Agency have asked that the policy clarifies that upstream works as well as those downstream are important, for biodiversity as well as floodrisk. The Parish Council and LPA are agreeable to this change, and as it improves accuracy and therefore clarity it is required in order that Policy CE5 meets the Basic Conditions. I recommend therefore that Policy CE5 is amended as shown in Modification 5 in order that its accuracy and clarity meet the standards required by the NPPF and NPPG.

**Modification 5:** The last sentence of Policy CE5 to be amended as follows:

..... *“Encouragement will be given to development which secures an improvement in flood risk **and biodiversity** terms which will reduce pressures on the catchment **both upstream and downstream.**”*

**4.10 Policy CF1 - Community Facilities** The policy currently lists facilities and then makes a reference to this not being limiting, which is vague and does not meet the NPPG requirement for clear and unambiguous policy. Additionally the Recreation Ground, which is proposed to be designated a Local Green Space is also quoted as a Community Facility in the policy (but not on the maps). Designating the Recreation Ground in its entirety as a Community Facility introduces two levels of protection for it, again not meeting the requirements for clarity in national guidance.

4.10.1 The Parish Council in response to my written questions has kindly clarified issues for me. Facilities to be designated as Community Facilities are those shown on the CNDP Map 6 and the Proposals Map – this is a matter of required consistency as well as clarity. I can understand that the Parish Council feel it would be odd not to refer to buildings on the Recreation Ground as community facilities, and doing this does not impact on the protection of the green space that is the Recreation Ground. The Play Area and Tennis Courts are more ambiguous if covered in each policy, as they are currently open space if not actually ‘green’ space. Generally alterations to features on the Recreation Ground that preserve and enhance the reason for its designation as Local Green Space will be allowed under the terms of that designation.

4.10.2 Policy CF1 is effectively dealing with community facilities that are buildings, and recreational facilities that are land based, and the policy title showing this would make the policy clearer and reduce confusion with Policy CF3 where land-based recreational features are also on Local Green Space. Rather than referring to unnamed other facilities, it is quite acceptable to indicate future facilities that are built will also have the protection of this policy. In order that Policy CF1 complies with the requirements of the NPPF and NPPG with regard to policy clarity, and thus the Basic Conditions, I recommend that it is amended as shown in Modification 6.

**Modification 6:** Policy CF1 is recommended to be renamed and the first paragraph amended as follows:

*Policy CF1 – Community and Recreational Facilities*

*“The existing community facilities as shown on CNDP Map 6 will be protected and new opportunities for community **and recreational** facilities will be supported. Community buildings ~~include, but are not limited to,~~ **are the Church and Parish Room; Plough Inn Public House; Crowhurst C of E Primary School; the school and its sports facilities, the Village Hall; Methodist Chapel; Crowhurst Station; BMX Bowl and Youth Club Hut and the recreational ground and its Pavilion on the Recreation Ground. Recreational facilities are the Play Area and Tennis Court also on the Recreation Ground. This policy will apply to any future community facility provided, and supports the existing and future prosperity of community life through application of the following criteria:.....***

4.11 **Policy CF2 – Open Spaces and Recreation** The policy makes reference to a designation of Open/Natural Space, which has been ruled out as a legitimate designation in para 4.5.2 of this

report, and for the same reasons will not be admissible in this policy either. It is not possible to protect the fields public footpaths cross, only the route of the path. The policy is mainly dealing with protecting and improving the public rights of way network, but this is not referred to in the title, while the Open Spaces referred to in the title cannot be dealt with by the policy. For reasons of clarity therefore Policy CF2 should be renamed.

4.11.1 The policy's support for footpath improvements at a particular location has been objected to at Reg16 as harmful for farming practice, but the Plan may legitimately promote the concept, which would of course be subject to negotiation regarding any construction. There is an overlap with Policy CF1 regarding protecting recreational open space and promoting the provision of new space. I understand from the Consultation Statement that policies CF1–3 have been distilled out of an initial single policy. The split could be tidier in this regard, but is not a Basic Conditions issue.

4.11.2 In order that Policy CF2 complies with the Basic Conditions and has regard to the need for clarity of policy and an adequate evidence base as required by the NPPF and NPPG, I recommend that the policy is amended as shown in Modification 7. Additionally clarity would be improved if Policy CF2 were all on the same page, but this is not a Basic Conditions issue.

**Modification 7:** Policy CF2 to be re-named and amended as follows:

New title: **"Policy CF2 – Rights of Way ~~Open Space~~ and Recreation"**

Clause 3. To be deleted: ~~3. Protect existing natural, semi open space and open space as shown on CNDP Map 3 by only supporting development in exceptional circumstances, such as community facilities where there is a clear need and landscape mitigation measures can be taken ;~~

Clause 4. To be re-numbered 3.

4.12 **Policy CF3 – Local Green Space** The policy proposes four areas of green space for designation as Local Green Space as defined by the NPPF (2012 paras 76-77). The reasons for designation of each space have been set out in an evidence table, and are acceptable in each case. Fore Wood is a large area of land, but I do not consider it "an extensive tract of land" as defined by the NPPF as not being acceptable for designation. It is a coherent whole, is in reasonable proximity to the community and has clear ecological richness and value. The designation is supported by Natural England.

4.12.1 The policy wording needs to formally designate the areas of Local Green Space and name them. Development on Local Green Space is only acceptable in very special circumstances, (NPPF2012 para 76) which would include improvements that promote the attributes and uses for which it was originally designated. 'Special Circumstances' would also include the development necessary for essential infrastructure if no alternative proposal was possible, and so I do not accept the objection and suggested alternative wording made at Reg16 by Southern Water. In order that Policy CF3 meets the Basic Conditions by properly designating the proposed Local Green Space, and defining possible development in a way that has adequate regard to the NPPF, I recommend it is altered as shown in Modification 8.

**Modification 8:** Policy CF3 to be amended as follows:

~~"1. Protect areas identified~~ **The following areas are designated as Local Green Space and shown on CNDP Map 4 and the Proposals Map:**

**Fore Wood**

**St Georges Churchyard**

**Crowhurst Recreation Ground**

**Crowhurst Nature Reserve**

~~by only supporting development that meets an identified need related to the current usage of the area, remain of a similar scale and bulk as existing facilities and is supported by the local community~~

**Development on Local Green Spaces will only be permitted in very special circumstances that will include development that enhances the use and attributes of the space for the reasons it was designated.**

4.13 **Policy CB1 Design** The policy sets out design criteria for new dwellings to respect their locality and context, and encourages energy efficient buildings and transport. Bullet point 3 is requiring every new dwelling to comply with the optional higher accessible/adaptable dwelling standard of M4(2) in the Building Regulations. The requirement for all new homes to comply to this higher accessibility design standard is based on the evidence of an aging population in Crowhurst, with 53% of the population being aged 45 years or older at the 2011 Census. Rother DC have pointed out that by 2028 45% of households in the district will have at least one person 65 years or older.

4.13.1 The March 2015 Written Ministerial Statement (WMS) specifically prevented neighbourhood plans from setting local technical standards for the construction, internal layout or performance of new dwellings apart from the (then) new National Space Standards (NPPG ID: 56-018-20150327).

The justification for this policy states that the policy aims to protect levels of amenity in existing properties, and ensure that new dwellings are of an equally high standard. Thus the proposed use of the National Space Standard (noting the correct title) in this policy has been evidenced with reference to existing standards in Crowhurst. However the WMS states that although Local Plan policies may require the new optional technical standards [such as the accessibility standards of M4(2)] if they are addressing a clearly evidenced need, neighbourhood plans may not. Thus although Rother DC is supporting this policy in the CNDP, and the emerging Rother Local Plan DaSA has just such a policy, requiring this standard in the CNDP is contrary to the Basic Conditions as it has not had due regard to national policy in the March 2015 WMS. The Building for Life Standard is design guidance not technical construction standards and is therefore acceptable. Indeed the 2019 version of the NPPF specifically mentions it as desirable (NPPF2019 para 129).

4.13.2 In order that Policy CB1 meets the Basic Conditions with regard to having due regard to national policy, I recommend that it is amended as set out in Modification 9.

**Modification 9:** Clause 3 of Policy CB1 Design is to be amended as follows:

*"3. New housing shall comply with the National FloorSpace Standards and Building for Life standards. **Due to the aging population of the Parish, new housing is also encouraged to meet and should accord with the Accessible/Adaptable Dwelling standard M4(2) of the Building Regulations or any future review of this standard.**" (and any relevant subsequent future standards) as proposed by the emerging Rother DaSA;*

The second sentence of paragraph 4.3.3.2 of the Plan to read as follows:

*... "New development should meet the minimum national floor-space standards and Building for Life 12 standards and is encouraged to provide adaptable floorspace by meeting M4(2) of the Building Regulations, as proposed by the emerging Rother DaSA .....*

4.14 **Policy CB2 Heritage** Complies with the Basic Conditions.

4.15 **Policy CH1- Land at Station Road and Forewood Lane** The CLCSCA has informed the choice of sites and provided design guidance for them that is included in this policy. A site selection process that complies with the requirements of the NPPG has been undertaken and the policy and allocation complies with the Basic Conditions.

4.16 **Policy CH2- Land south of Forewood Rise** A site selection process that complies with the requirements of the NPPG has been undertaken and the policy and allocation complies with the Basic Conditions.

4.17 **Policy CH3- Land adjacent to the Station Car Park** A site selection process that complies with the requirements of the NPPG has been undertaken and the policy and allocation complies with the Basic Conditions.

4.18 **Policy CC1 Economic Sustainability** Clause 6 is understood and not necessary, and clause 7 could just follow on from clause 5 making the policy read better. However this is not a Basic Conditions issue, and the Policy complies with the Basic Conditions.

4.19 **Policy CC2 – Infrastructure** The policy is repeating at clause 8 (no clause seven) an identical clause in policy CB1. Repetition of this nature is confusing and in order to have the clarity required of policy the clause should be deleted from this policy.

4.19.1 Clause 5 of the policy is requiring a link from the proposed parking area to a nearby footpath and is worded in a way that makes this an acceptable land-use requirement. However the Proposals Map and CNDP Map 7 refer to the link as a ‘Proposed Footpath Diversion’ which is a highway issue not a land-use issue, and so is not a suitable proposal for a neighbourhood plan. The explanation given for the reference to a diversion could be added to the text of the justification, but the maps need to keep to land-use issues and refer to the new path as a possibility only.

4.19.2 In order that Policy CC2 complies with the Basic Conditions with regard to clarity and the legislative requirement that the Plan deals with land-use issues, I recommend that it is amended as shown in Modification 10.

**Modification 10:** Clause 8 of Policy CC2 is to be deleted.

CNDP Map 7 and the Proposals Map to amend the reference to “~~Proposed Footpath Diversion~~” to “Proposed Footpath”.

## 5. The Referendum Boundary

5.1 The Crowhurst Neighbourhood Development Plan (CNDP) has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the CNDP 2018 – 2028 shall be the boundary of the designated Neighbourhood Area for the Plan.