Emailed to Rother District Council - draftlocalplan@rother.gov.uk

19th July 2024

Dear Sir/madam

**RE: Fairlight Parish Council - Response to RDC Local Plan 2020-2040**

With reference to the RDC Local Plan 2020-2040 public consultation please find below the response from Fairlight Parish Council.

**Coastal Change Management Policy - Questions 191 and 192**

Proposed Policy ENV4 Fairlight Cove coastal change management area

Fairlight Parish Council broadly welcomes this new policy which in conjunction with the Article 4 directive in place for the immediate coastal area at risk provides a useful agent to current planning and should help to inform potential development of the need for extra care in this area. However, in the draft plan the boundaries for this area have been rather broadly drawn and the demarcation between areas potentially difficult and open to interpretation. It is hoped in the final plan, the demarcation lines will be drawn more clearly and will avoid passing through properties.

Whilst we note that this is looking well into the future, we also note that there are requirements on Rother District Council to work with our current coastal defences to hold the line until at least 2050. However, the infrastructure delivery plan seems ambiguous with regard to Fairlight cliffs. It should be made clear in respect of all three berms, including the pumps on Rockmead Road, that the policy is to hold the line until 2050 at the earliest.

**Flood Risk - Question 61**

Section 5.7 of the Plan states:

‘Development will only be acceptable where it does not have an adverse impact on the natural environment.’

There are many constraints across the district which impact on the overall suitability of land.

Development will need to be steered away from areas of high flood risk, designated habitat sites and other areas with important high landscape value.

With regards to flooding in line with the NPPF, the development strategy will take a sequential development approach to ensure that suitable land is identified in lower risk areas before development in areas at higher risk of flooding from all sources is considered, with any appropriate mitigation. This is informed by the Council’s Strategic Flood Risk Assessment (SFRA) 2021 Final Report.

The sewage flooding and discharging within Fairlight is historical, escalating and not in question, as the involvement of Southern Water with Fairlight, in the Pathfinder Project, clearly illustrates. However, this is also coupled with significant surface and groundwater flooding, which compounds the overall flooding endured by the catchment.

The cumulative effect of this flooding, along with the growing number of contributions from the Combined Sewer Overflow spills (CSO's) into the local watercourses, has had a considerable impact in Fairlight, on those downstream in Pett; who have also been badly affected by flooding and on the environment in terms of considerable pollution.

As planners are well aware there was an appeal against the refusal for planning permission on the land east of Waites Lane which is the only potential development site in Fairlight. This appeal was rejected and the grounds that it was dismissed on are still very relevant. Fairlight Parish Council is therefore asking for all the planners to consider de-allocating the site on the land east of Waites Lanes, due to the following issues which were well discussed at the appeal hearing and,

in the Planning Inspectorate Appeal Decision document, appeal reference APP /U1430 /w /21/3283287 authored by Graham Chamberlain with a decision date of the 4th August 2022.

Sequential Testing

Paragraph 21 on Page 5 of the appeal document mentions:

“Paragraph 166 of the Framework states that the sequential test does not need to be applied for development on sites which have been allocated.

However, that would only apply if the site was allocated following a sequential test at the plan making stage, which considered flooding from all sources, including groundwater in this instance. There is nothing before me to suggest the allocation at the appeal site was sequentially tested in this way.

As a result, Policy FAC2 is inconsistent with the Framework, as it is predicted on a Strategic Flood Risk Assessment dated 2008 that undertook some sequential testing but not in relation to groundwater.”

Flood Risk

Paragraph 23 on Page 5 of the appeal document states:

“I therefore conclude that the proposal would be at risk of flooding and this risk has not been adequately justified through an absence of sequentially preferable sites in a logical and robustly identified STA. The proposal would therefore be contrary to the Framework which aims to sequentially direct development away from areas at risk of flooding to avoid flood risk to people and property.

In this respect it is difficult to see how the proposal could adhere to Policies EN7 and PC1 of the CS.”

Therefore, since there has not been a sequential test that has considered flooding from all sources, including groundwater, the site cannot be allocated and the proposal is in breach of section 5.7 of the Rother Local Plan.

In the context of what has now been acknowledged by Southern Water; post Planning Appeal Hearing, **it cannot be overstated enough** how important it is for the existing flooding issues, that none of the various proposed development applications for this site have been successful to date. Indeed, the previous preclusions on development for the same plot as is proposed in the current Draft Local Plan (DLA) for Fairlight, were enforced by the County Council historically for very good reasons.

Foul Water Drainage

Paragraph 46 and 47

“Southern water had confirmed there was capacity within the existing system for foul drainage flows” …” comprehensive evidence presented by interested parties demonstrated that there is an existing issue with a foul drainage system at times of heavy rainfall.” ….” correspondence between Southern water and local residents acknowledge this problem and seems to imply that it needs to be remedied”.

Paragraph 49

“The evidence before me would suggest that upgrades to the system are required for the foul water flows before the development is to be accommodated.”

Had the scheme been otherwise acceptable then a condition could have been imposed along the lines advocated in the PPG, this would likely have acquired the completion of the upgrades referred to by Southern water prior to the occupation of the development”.

The conclusion to the report, Paragraph 55

“However, the proposal would also be at risk of groundwater flooding and this has not been justified through a sequential test contrary to the framework. This matter alone is sufficient force to outweigh the benefits of the proposals given the strictures in which flooding is addressed in the national policy”.

The facts in this report have not changed and Southern Water places the finality of the proposed works into AMP12 (2045-2050)[[1]](#footnote-1), well beyond the life of this local plan.

The escalation in sewage surcharging and CSO spills also has its roots in capacity shortfalls during rainfall, Southern Water's long term maintenance neglect, and the lack of infrastructure investment, which in turn is compounded by the fixed constraints of the catchment. Further investigation by Southern Water has already revealed that this is not something that can be resolved by a 'Bigger Pipe' solution.

**Sustainable Drainage - Questions 186 and 187 Policy ENV**

Fairlight Parish Council feels that surface water drainage is another factor in why development in Fairlight should not be allocated.

Fairlight is in the lee of and on the down slope from Fire Hills (Hastings) Country Park at the top of Battery Hill, which is the only coastal high point between Folkestone and Eastbourne. It attracts local weather mainly rain at higher rainfall levels than adjacent towns and villages, which causes large amounts of surface water run off to Fairlight and beyond down to Marsham Brook, Pett level, and the RAMSAR area. This exacerbates the flood risk for all those communities and this flood water, at times of high rainfall, contains sewage from the overflow (CSO’s) of sewers in Fairlight and the Sewage Treatment Works on Pett Level Road.

This surface water cannot be fully attenuated on its way through Fairlight, due to ground instability. Southern Water have investigated the possibility of attenuation tanks, but the weight, size and capacity of the tanks needed in an area that already has ground instability would cause further problems and would be preclusive or be insufficiently effective in some of the areas needed, because of the weight, size or capacities required. Attenuation of any sort also incurs its own inherent problems, as well as maintenance in perpetuity, which historically has been a major shortfall in Southern Water’s operations.

In coastal areas of Fairlight soakaways are not recommended, due to the increased risk of ground instability. However, calculations and a detailed survey of the main catchment has revealed that 90-95% of the properties within the parish dispose of their surface water through soakaways. This then exacerbates the inadequacy of the sewer system due to the poor state of the sewer network in the location and the major groundwater infiltration that occurs.

The 'slow the flow' SuDS initiative instigated by Southern Water within the catchment, under Pathfinder and using 'leaky water butts,' has been largely ineffective as most of the Fairlight properties are on soakaways. Some residents who were able to have butts fitted have had ongoing issues with blockages rendering the water butts ineffective or have experienced dangerous overspills. Others have already returned to using their old water butt system.

Highways drainage in the catchment discharges solely into the watercourses or roadside soakaways in adjacent fields. However, as with the residential soakaways, these further contribute to the groundwater flooding within the catchment.

**After two years of the Pathfinder project, Southern Water has finally acknowledged that both Highways and Parishioner contributions are not the major contributors to the sewage discharging and flooding historically experienced within Fairlight.**

Southern Water has looked at solutions, but it has been clear as the project has proceeded that the issues are complex and that some of these are only going to be partial remedies for the insufficiencies within the catchment. This makes paragraph 49 of the Inspector’s appeal decision report difficult to envisage happening in the near future.

Even if all the current water ingress and egress from the identified sewers were to be fixed by Southern Water, the issues of sewer surcharge and surface and groundwater flooding, as well as large numbers of CSO spills would still exist. The addition of any further development at the proposed site would actually increase the CSO spills within the catchment.

Contamination of the mains water supply and groundwater within the catchment has also been identified and seen within some of the 56 wells, designed to prevent coastal erosion and property loss at the cliff edge.

Southern Water has a government target of reduction to 10 spills per CSO, per annum by 2035. It is unlikely that this target will be met in the case of Fairlight. Again, the addition of any further development at the proposed site would actually increase the CSO spills and duration of those spills within the catchment, not to mention add to the existing flooding already identified within a recognised and pre-existing flood area.

The latest figures released by Southern Water for Fairlight indicate 123 spills over a period of 753.37 hours in 2022/23 alone. There was also an incidence of a dry weather spill from a CSO during the same year. This is a huge volume of sewage discharge, when you realise that the CSO discharges untreated sewage at nearly 7 times that of the sewer pipe capacity.

Much of the preceding years CSO spill figures have also been underestimated, as for years large spills have occurred outside the CSO telemetry. Therefore, to reduce these CSO spills to just 10 spills per CSO, per annum is a huge hydraulic challenge, which is difficult to resolve given the complexity of the other factors involved.

Long-term environmental monitoring conducted by Dr Simon Young of the impact to the watercourses subjected to these CSO spills, has also revealed a significant decline in the Biotic index of the invertebrates seen, indicating long-term, high levels of pollution. These findings also revealed that the fresh water source further upstream within the catchment is not sufficient to flush through the pollution and that this extends to the RAMSAR site, just downstream of both the Fairlight and Pett catchments.

Currently, only 5km of the main sewers have been surveyed within the catchment and almost all of those require repair, maintenance or replacement of large sections of sewer. The remaining 20.8Km within the catchment has not yet been surveyed, but is known to be in a similar state of disrepair**.** Whilst Southern Water have sealed some manholes within the catchment, with the forces and volumes identified, this is not a guarantee of no spills from these in the future and experience has revealed that Sewage discharge pops up elsewhere in the sewer network as a result.

**Conclusion**

It is unquestionable that any development within the proposed allocation site in the Draft Local Plan would cause additional sewage surcharge and flooding within the catchment. Any further development that occurs will also impact the entire sewer system hydraulically, which as mentioned is ultimately limited by the fixed constraints and capacities inherent within the network. Greater sewage input by further development would also add to more spills in all 4 of the CSO sites and along with longer durations of those spills this would make the flooding issues worse. This would undoubtedly contribute to greater pollution than already currently exists. Considering that during active discharge it equates to 85% of the sewage pipe at the CSO, the environmental impact would be considerable and contribute further to the impact on the RAMSAR site downstream.

Historical correspondence has also demonstrated that sewage surcharge and flooding in Fairlight is not new and that if a resolution was simple, one would have been found long before now. Again, these issues are made more complex by the fixed constraints within the catchment that cause greater sedimentation and further reduce capacity. All these facets are evident within the proposed draft allocation site.

An allocation at this site implies acceptance, 'in principle', before any true, tried or tested resolution has been found to these 'major' problems. A cart before the horse method of planning, based on a sewage system that has spilt since its inception, coupled with the issues already discussed which have still not been remedied, is not responsible or paying due regard to the serious and complex nature of the problems at hand.

The CSO spills alone within Fairlight are excessive, given the size of the catchment and the additional contribution with ground and surface water flooding, should not be made worse by any proposed development. The dry weather flow spill from a CSO within the catchment last year; the discharge of which is meant solely for emergency hydraulic relief only, is another indicator of serious concern.

Southern Water‘s failure to take account of the creep, infill and development over the preceding decades by updating their Waste Water Treatment Works is not a quick or an easy issue to resolve, if indeed a remedy is possible.

The fixed constraints cannot be altered, which is why the sewer system within Fairlight has been failing since its inception.  Furthermore, Southern Water has written in correspondence, that the selection of Fairlight for any upgrades, particularly for upgrades to the works, *'has to be measured against the other assets within its regional catchment',* so may not receive the necessary resolution at all. Southern Water also make it clear that, *'Their AMP's are to produce indicative costs and timescales; for planning purposes only, and are not a commitment to fund or delivery any option”*

The global water problems within Fairlight are simply too important to gamble on an 'Indicative Plan' that Southern Water may well abandon.

**Proposed site allocation**

The Parish Council appreciate that an application for planning can be submitted despite the allocation status, but we are strongly of the opinion that the proposed site in question should be removed from the RDC Local Plan.

With known sewerage and water problems of this magnitude, it cannot be left to chance or be allowed to become a casualty of indicative plans and timescales that never materialise.

A true resolution needs to be found and its viability needs to be rigorously tried and tested for a considerable period, before any allocation is made.

The Parish Council also feels that Fairlight is not suitable for further development on a large scale due to a number of factors pertinent to the village the roads used to access it, the distance of the current proposed allocated site from the rest of the village, and also the impact of the development would have on the environment and the current dark skies.

**Live Well Locally**

This states the approach is to create inclusive connected and compact neighbourhoods which can be accessed preferably by walking, wheeling, cycling or making use of public transport options.

Section 4.3 and 4.4

The proposed allocated site for Fairlight although it appears to be part of the village could only be accessed from Pett Level Road creating a distance from the village amenities, these distances are not insubstantial being about 1300m to the village pub with similar or longer distance to the Village Hall and the recreation area. Residents would need to traverse a very narrow footpath on Pett Level Road, which is a bus route with double decker buses, making this almost impossible for families with children and pushchairs, or indeed people in mobility scooters to use this footpath safely.

Contrary to the outline summary provided by Rother concerning the Draft Local Plan in Fairlight, the village also lacks amenities such as a doctor surgery, a village shop and post office (i.e. no access to banking services etc.), or a local primary school, which is easily accessible by public transport. This doesn’t fulfil Policy LWL3.

**Live Well Locally – Health/Well-Being and Climate Change**

Additionally, it is not possible for people living in Fairlight to access a primary school, secondary school, further education, employment centres, town centres, shops or the local hospital and GP Service; by cycle or on foot, within either 15 or 30 Mins. This not only places heavy reliance on the use of cars to access essential amenities and services, but as indicated by the RTPI, would adversely impact the changes required to people’s day to day living, in order to achieve carbon net zero by 2050

Any proposed allocation would contribute greatly to that reliance on cars.

Fuel poverty (both heating and transport costs) is a known issue within the Village, as the services of the Parish Council’s Drop in Social Hub clearly demonstrate.

**Green to the Core**

As mentioned above the proposed allocated site for Fairlight does not conform with several of the green to the core ideals. Indeed, this proposed site would create an isolated community with in the village, cut off by a busy C Road (Pett level Road), and served by a bus service that is not always reliable, but which is at best once an hour and unable to offer late night workers or early shift worker transport to home or work. The site would also encroach on the AONB.

**Landscape Character**

The proposed allocated site in Fairlight would severely diminish the dark skies which we are currently able to enjoy. The dark skies are not only of importance for humans, in terms of recreational stargazing and the lack of light pollution allowing ~~the~~ natural day/night difference, but also the impact on wildlife.

**Existing Wildlife Corridors and Dark Skies - Questions 181 and 182**

The development itself would interfere with wildlife corridors and evidence has shown that artificial light at night also has a negative and deadly effect on many creatures including mammals, amphibians, birds, insects and plants. Development

would also contribute to the identified fauna and flora losses, already featured so far in Rother’s Biodiversity Reports (AMR) (2019-2023)

Being a coastal village next to the English Channel, Fairlight is on migration routes not only for birds but also for many butterfly and moth species. The loss of the dark skies could cause adverse effects on these populations. The lack of street lighting in small villages locally is intended to preserve the dark skies which we have.

The DASA Para 6.88 states ‘dark skies are a valued characteristic of the district’s countryside and contribute in particular to the special landscape qualities and natural beauty of the High Weald AONB.

Policy EN1core strategy 2014 states ‘high quality natural landscape character is to be achieved by ensuring the protection of tranquil and remote areas including the dark night sky’

Fairlight Cove has a Bortle classification of 4. Skies are classified using the bortle scale and range from 1 to 9, the lower the number, the darker it is. This demonstrates how special this area is. It would take very little additional lighting, especially security lighting and leakage of light from windows particularly Velux windows, to change this scale significantly.

The International Dark Skies Association says ‘the unusual and unique dark skies over the high Weald AONB and surrounding areas have been identified as worthy of conservation’

**It is the Parish Council’s view therefore that the proposed site for allocation in Fairlight should be de-allocated.**

Finally, the Parish Council would like to thank you for your time and requests that all the points raised above will be taken into account when making any decisions.

Yours sincerely,

Mrs Pauline Collins

Proper Officer/RFO

1. Southern Water – Drainage and Water Management Plan - Technical Summary: Storm Overflows Regional Discharge

Reduction Programme - April 2023 Version 1.0 [↑](#footnote-ref-1)