Wealden Local Plan

Duty to Cooperate
Background Paper - Appendix MSDC

Submission Document
Wealden District Council
January 2019
How to Contact Us

Planning Policy
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Office hours Monday, Tuesday, Thursday, Friday 8.30am to 5.00pm and Wednesday 9.00am to 5.00pm

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DUTY TO COOPERATE MEETING
10:30AM WEDNESDAY 9 JULY
WEALDEN DISTRICT COUNCIL OFFICES, VICARAGE LANE, HAILSHAM, BN27 2AX

WEALDEN DISTRICT COUNCIL & MID SUSSEX DISTRICT COUNCIL

AGENDA

1. Purpose of the meeting and recap on officer meeting on 24 June

2. Shared cross-boundary strategic issues
   i. Ashdown Forest SPA and SAC and the in-combination effect
   ii. Gypsy & Traveller accommodation
   iii. Housing need

3. Proposed Memorandum of Understanding
Original Message

From: [Redacted]
Sent: 11 December 2014 21:34
To: [Redacted]
CC: [Redacted]

Subject: Re: Meeting today

Thanks that sounds very helpful to all of us.

Regards

From: [Redacted]  
Sent: Thursday, December 11, 2014 05:23 PM  
To: [Redacted]  
Subject: Meeting today

Dear [Redacted],

Thanks for the email. Yes the meeting with [Redacted] went well today. In summary we covered the following:

- We talked through the Sustainability Assessment of cross-boundary options for the Mid Sussex District Plan that has been carried out by Land Use Consultants. This looks at the unmet housing need of our neighbours and assesses the sustainability impacts on Mid Sussex of us accommodating these and the impacts on our neighbours if we don’t. WDC has inputted information to this study and [Redacted] will check whether what it says about Wealden is correct and won’t cause you any problems. They were interested in this study as WDC maybe need to do something similar.

- The draft District Plan is out for consultation at the moment (until 16th January). It doesn’t include housing numbers yet as this is still subject to the cross-boundary work referred to above and other technical work on need and supply. However, we are seeking comments on the wording of other policies and text in the Plan. [Redacted] agreed that they would discuss any concerns with us before making any formal representations.

- We also explained that our housing need and supply figures were likely to be finalised in the New Year and it was agreed that it would be useful to meet in January to discuss these. Our
intention is for our Members to agree our pre-submission Plan in March (ahead of purdah) and to then publish it in May/June with submission to PINs in July.

- We spent some time talking about our joint issues on habitats. In particular:
  - We provided a draft figure of our likely housing delivery within the 7km zone (about 1,000 homes by 2031) to inform the draft joint SAMM Strategy being prepared by WDC;
  - We discussed how this related to our Interim SAMM Strategy (which we have been operating for over a year and has secured approximately £10k from 5 commencements with another £500k committed through planning permissions that have not yet commenced). It was agreed that the £10k should be spent (preferably this financial year) to bring forward one or more of the projects identified in the joint SAMM strategy and that the ‘committed’ money be rolled forward into the joint SAMM strategy as we receive it. This should provide some certainty for the joint SAMM strategy, particularly where this includes salaried posts. A legal agreement between WDC and the Conservators and a further one between WDC and the other local authorities were being drafted by WDC’s legal team and will be forwarded to MSDC;
  - There was some discussion about the possibility of development in the Forest Row area contributing to the SANG at Ashplats in East Grinstead. However, we all had concerns about whether residents living so close to Ashdown Forest would in reality drive through East Grinstead to use Ashplats as a suitable alternative to the Forest;
  - MSDC explained that, once neighbouring authorities had published housing provision numbers, there would be pressure on WDC to assess ‘in combination’ effects on atmospheric pollution. There was a possibility that this could go public around the time that WDC publishes its issues and options consultation in Autumn 2015, which could coincide with the Mid Sussex District Plan examination. The risks around this were discussed.

So, in summary, I think it was clear from the meeting that our two authorities have a lot in common and that we can best meet our many challenges by working together and seeking to avoid causing each other problems.

Regards,

MSDC

www.midsussex.gov.uk
-----Original Message-----

From: [Redacted] MSDC
Sent: 3 February 2015 16:16
To: [Redacted] WDC
CC: [Redacted] MSDC
Subject: Wealden/Mid Sussex draft MoU

Hi [Redacted] WDC

Further to our meeting this afternoon, I have updated our draft MoU for your contributions and review, please.

Please can you treat our District Plan housing need and provision figures as confidential as these have yet to be published.

Many thanks

[Redacted]

[Redacted] MSDC

Planning Policy and Economic Development

[Redacted]

[Redacted] www.midsussex.gov.uk

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Duty to Cooperate

Memorandum of Understanding

Parties to the Agreement

The Agreement involves the following local planning authorities:

- Wealden District Council (WDC)
- Mid Sussex District Council (MSDC)

Introduction

Local planning authorities are required by the Localism Act 2011 to meet the ‘Duty to Cooperate’, that is to engage constructively and actively on an ongoing basis on planning matters that impact on more than one local planning area. Section 33A(6) of the 2004 Act also requires local planning authorities and other public bodies to consider entering into agreements on joint approaches. Local planning authorities are also required to consider whether to prepare local planning policies jointly under powers provided by section 28 of the 2004 Act.

The Duty to Cooperate is amplified in the National Planning Policy Framework (NPPF) which sets out the key strategic priorities that should be addressed jointly (paragraph 156). Paragraphs 178-181 of the NPPF details how it is expected that the Duty to Cooperate will function, and in particular states that:

"Local planning authorities will be expected to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts when their Local Plans are submitted for examination. This could be by way of plans or policies prepared as part of a joint committee, a memorandum of understanding or a jointly prepared strategy which is presented as evidence of an agreed position."

The National Planning Practice Guidance (NPPG) offers further advice on the implementation of the Duty to Cooperate. This includes the advice that one way to demonstrate effective cooperation, particularly if local plans are not being brought forward at the same time, is the use of formal agreements between local planning authorities, signed by elected members, demonstrating their long term commitment to a jointly agreed strategy on cross-boundary matters. The NPPG states that:

"Such agreements should be as specific as possible, for example about the quantity, location and timing of unmet housing need that one authority is prepared to accept from another authority to help it deliver its planning strategy. This will be important to demonstrate the commitment between local planning authorities to produce effective strategic planning policies, and it will be helpful for Inspectors to see such agreements at the examination as part of the evidence to demonstrate compliance with the duty."

Objectives

This Memorandum of Understanding relates to the preparation of local development plans in the two local planning authority areas — Wealden and Mid Sussex. Its overall aim is to ensure appropriate planning for the cross-boundary strategic planning issues that exist and/or are likely to arise in the foreseeable future between the two Councils.
Current Position

The current position is as follows:

Mid Sussex District Council is preparing a revised version of its District Plan for the period 2014 – 2031. There was public consultation on this draft Plan from November 2014 until January 2015. It will be published in June 2015 and submitted to the Secretary of State in August/September 2015.

Mid Sussex District Council is also preparing a Traveller Sites Allocations Document for the period to 2031. There was a public consultation on this draft Document in August/September 2014. It is anticipated that it will be published in June/July 2015 and submitted to the Secretary of State in October/November 2015.

Wealden District Council is at examination with its Affordable Housing Delivery Local Plan, which was submitted in March 2015. The timescale for adoption is November 2015. A new Local Plan, which will encompass a review of the adopted Core Strategy, referred to as the Wealden Local Plan, is underway and anticipated to be adopted in winter 2018.

Strategic Planning Issues

The following have been identified as Strategic Planning Issues:

- Housing
- Gypsies and Travellers
- Ashdown Forest Special Protection Area and Special Area of Conservation

Liaison and working arrangements

Wealden District Council and Mid Sussex District Council have been working together through the following mechanisms:

- the High Weald Area of Outstanding Natural Beauty Management Board
- formal consultation as the respective local plans have progressed
- joint Strategic Access Management and Monitoring (SAMM) strategy

The following meetings were held just between the two authorities to discuss their emerging plans and agree this Memorandum of Understanding:

- 24th June 2014 (officers)
- 9th July 2014 (Cabinet Members)
- 3rd February 2015 (officers)
- 16th April 2015 (officers)

Outcomes

Mid Sussex

Housing

Consultants commissioned by MSDC have undertaken a sustainability assessment of cross-boundary options for the Mid Sussex District Plan and, as part of this process, MSDC wrote on the 5th August 2014 to neighbouring local planning authorities, including Wealden DC, to establish whether they have unmet needs that they are seeking assistance with, and the detailed
nature of any such needs. WDC responded on the 22nd September 2014 to say that there was a potential shortfall of about 3,500 dwellings over the plan period of 2006 – 2027.

The results of the sustainability assessment were shared with the neighbouring authorities including WDC. MSDC has also shared the results of its updated work on housing need and supply. This evidence indicated an objectively assessed housing need of 627 homes per annum 2014-2031 and a potential supply of 650 homes per annum over the same period. The sustainability assessment advises that any supply in excess of local need is most likely to be absorbed by Crawley and Brighton & Hove, which have the strongest economic and functional links with Mid Sussex.

WDC confirms that the Sustainability Assessment of Cross-Boundary Options for the Mid Sussex District Plan (February 2015) is acceptable to the Council.

Since the publication of the above sustainability assessment, in February 2015 the Department for Communities and Local Government released new 2012-based household projections for the period until 2037. These indicate a revised Objectively Assessed Need figure for Mid Sussex of 656 homes per year. The consequence of this is that Mid Sussex is not able to contribute towards meeting neighbouring authorities’ housing needs.

**Gypsy and Traveller Accommodation**

The need for permanent Gypsy and Traveller accommodation in Mid Sussex is assessed to be 34 pitches (2011-2031). No need exists for Travelling Show People accommodation. The quantum of sites proposed in the Traveller Sites Allocations Document is considered sufficient to meet this need without there being any dependency on other authorities.

**Ashdown Forest Special Protection Area (SPA)**

Both authorities are working towards agreeing a joint SAMM strategy to help mitigate the effects of increased recreational pressure on the SPA from new housing and any other relevant development in the vicinity of Ashdown Forest.

**Wealden District Council**

The Wealden District Core Strategy was adopted in February 2013, and provides for 9440 dwellings in the period 2006 to 2027. Policy WCS1 of the Local Plan requires that the strategy be reviewed in 2015. It will be necessary to include an assessment of current and future levels of need and demand for housing to provide an appropriate basis for longer term housing provision. Wealden DC confirmed at the Strategic Sites Local Plan examination that the Council is undertaking a Strategic Housing Market Area Assessment, and in the absence of the SHMA the Council is using the 2015 CLG Projections as its Objectively Assessed Housing Need figure. This is 12,705 dwellings between 2006 and 2027 (616 per annum).

Wealden District Council has commenced work on the Core Strategy Review, referred to as the Wealden Local Plan. An Issues, Options and Recommendations document will be published at the end of 2015.

Both authorities have reviewed each other’s evidence bases and emerging Plans and are satisfied that each has considered all relevant opportunities to seek to meet the housing needs of its Housing Market Area.
Ongoing Cooperation

It is agreed that the two authorities will continue to actively and diligently cooperate on all cross-boundary planning matters with a view to achieving the proper planning of the wider area. They will also share their respective local plan timetables with each other as these are updated.

Signed:

[signature]

Wealden District Council
Dated: 29th May 2015

[signature]

Mid Sussex District Council
Dated: 2 June 2015
RE: Mid Sussex District Plan

Sent: 31 March 2015 09:34

From: MSDC

To:

CC: MSDC

Note: Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

1 Attachments

HPP_FINALMarch2015.docx (510 KB);

Dear Colleagues,

Further to my email below, I attach a draft topic paper which pulls together the relevant evidence to justify our proposed housing provision number of 650pa. This is still in draft format as we may need to amend our OAN figure following the publication of the latest household projections by DCLG at the end of February. However, regardless of what happens to the OAN, we believe the evidence demonstrates that we have stretched the plan provision figure as far as it is sustainable to do so.

If you have any comments on the attached please let me know by 24th April so we can make any amendments ahead of formal publication.

Regards,

MSDC

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Working together for a better Mid Sussex

Subject: Mid Sussex District Plan

Dear Colleagues,

Just to let you know that last night our Council agreed the new Mid Sussex District plan 2014-2031 for publication and submission for examination. Thank you to those of you who have inputted to our process so far and in particular to those who helped inform the Sustainability Assessment of Cross-Boundary Options. Your support has been really valuable.

Formal publication of the District Plan will take place after the elections (mid May-end June), but all the documents are now in the public domain and I would appreciate it if you could have a look at them and let me have any informal comments by 13th April. I have been given delegated authority to make minor changes ahead of publication, so if you have any queries or would like any of the text or policies tweaked then please let me know.

Obviously, given our experience last time, I would like the chance to address any issues and avoid any surprise objections during the formal publication stage.

The documents can be viewed at

http://www.midsussex.gov.uk/planning/8264.htm

Regards,

MSDC
RE: Mid Sussex OAN

Sent: 7 May 2015 10:47

From: MSDC

To: WDC

Thanks for 25th it is.

Regards,

WDC

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Working together for a better Mid Sussex

From: WDC

Sent: 07 May 2015 10:45

To: MSDC

Subject: RE: Mid Sussex OAN

Hi MSDC

I am not surprised by the figure and as we were not expecting Mid Sussex to take our growth (from previous discussions) then it is not a particular issue for us. On this basis the 25th is fine for us.

Regards

WDC

From: WDC

Sent: 07 May 2015 10:43

To: MSDC

Subject: RE: Mid Sussex OAN

Hi MSDC

The only problem with that date is that we are likely to have published by then and we didn’t want you to be surprised by
our increased OAN figure. If you are ok with that then I am happy to merge it with our meeting on the 25th.

Regards,

MSDC

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Working together for a better Mid Sussex

From: [Redacted] WDC
Sent: 07 May 2015 10:39
To: [Redacted] MSDC
Subject: RE: Mid Sussex OAN

Morning [Redacted] MSDC

If it helps I am refreshing the settlement hierarchy today! We are meeting on the 25th June to discuss DTC matters, would this date suffice?

Kind regards

[Redacted] WDC

From: [Redacted] MSDC
Sent: 07 May 2015 10:28
To: [Redacted] WDC
Subject: Mid Sussex OAN

Dear [Redacted] WDC

As there is nothing important going on today I thought I'd try arranging the next set of duty to cooperate meetings.

As you know, our Members agreed a pre-submission District Plan in March for us to publish after the elections and submit to PINs in the summer. This includes a plan provision figure of 650 dwellings per annum 2014-2031 based on our capacity and supply evidence, which we spoke about when we met with you in February.

Our OAN figure in the draft Plan agreed by Members and discussed previously with you is 627 dpa. However, this was established prior to the release of the DCLG household projection figures on 28th February. These projections give a figure of 656 dpa for Mid Sussex.

We would like to meet with you to discuss our revised OAN and the impact that this has on any potential for Mid Sussex to meet wider than local needs. I would prefer to do this before we publish formally. Please can you let me know if you are available on the following dates:

http://archivemanager.wdc.gov.uk/app.html#/message/6c8136e7-4923-dbab-d8d4-2e4f8c780b4/20/12/2018 10:50:42]
Archive Manager

Wednesday 3rd June am
Thursday 4th June am
Friday 5th June am

Regards,

MSDC

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Dear WDC

Re: Ashdown Forest Transport Model

Thank you for sharing a copy of the Invitation to Tender for the Ashdown Forest SAC Transport Model. I note that we received this on the 6th May and the closing date for bids for the work was 8th May, with an intention to award the contract by 22nd May.

The brief indicates that there could be potential implications from this work for this Council. As a consequence we are taking our own legal advice from QC about this matter.

Whilst the work this Council has carried out on this matter demonstrates only minimal impact of traffic movements from Mid Sussex on atmospheric pollution at Ashdown Forest, our Counsel has emphasised to us the importance of your work being able to disaggregate the impact of Mid Sussex from the overall 'in combination' effect.

On this basis please can you provide assurance that the brief for the model will allow such disaggregation and that the impacts from individual authorities will be clearly identified in the resulting report. I would also be grateful if you could ensure that the results of this work are shared with us at draft stage, and that we have time to carefully consider them before formal publication.

Yours sincerely,

MSDC

Head of Economic Promotion and Planning

Working together for a better Mid Sussex
WEALDEN DISTRICT COUNCIL

Wealden Local Plan Duty to Co operate

Thursday 25th June 2015 – 2.00 to 4.00 p.m.

Mid Sussex District Council offices, Haywards Heath

Notes from meeting

Present:

WDC/MSDC

WDC opened the meeting and outlined WDC current Local Plan status and the timetable for the preparation of the Wealden Local Plan. The first stage being consultation on an Issues, Options and Recommendations document in October this year. The anticipated date for adoption is 2017 to 2018 depending on the timescales for examination. This document will be an all encompassing Local Plan, including the review of the Core Strategy.

WDC confirmed that this meeting was confidential.

Strategic Housing Market Assessment (SHMA)

WDC explained that one of the purposes of the meeting is to discuss the SHMA. It is the intention of the Council to incorporate discussions and views of other local authorities to be included in the SHMA papers to show the interactions of Local Authorities and the SHMA process in order to comply with the duty to co-operate.

WDC confirmed that WDC had received a final draft of the SHMA and outlined the initial findings including which authorities that fall within Wealden’s housing market area (HMA).

WDC OAHN is approx. 735 dwellings per annum with a total of approx. 7500 additional dwellings across the plan period (in addition to the allocations in the Core Strategy). MB has estimated the total shortfall of the authorities within the HMA (Rother, Hastings, Lewes, Mid Sussex, Tunbridge Wells, and Eastbourne) to be approx. 20,000 although we are questioning Hastings inclusion in the HMA with the consultants. It was emphasised that the shortfall...
was an estimate until it has been confirmed with all relevant Local Authorities. MSDC confirmed that MSDC are meeting their own need.

WDC explained that WDC would be producing a paper to sit alongside the SHMA to explain the relationships with each authority within the HMA. This will be circulated with the draft SHMA before the Issues and Options document for comment.

WDC indicated that we were unaware whether the additional growth for Wealden can be accommodated but will look to see if any other authority’s shortfall can also be accommodated. The need identified for Wealden is not too far from what we are currently delivering and we believe that this level of growth can be sustained by the market but it would need to be determined whether any other authority’s shortfall can be accommodated. The need identified for Wealden is not too far from what we are currently delivering and on this basis it would be difficult to argue lower OAHN in terms of the market’s ability to deliver.

Spatial development options

WDC produced a map showing the current preferred option for development which is seeking to move growth away from the Ashdown Forest and concentrate development in the south of the district.

The current constraint regarding the waste water treatment works capacity in the south of the district will be resolved in the medium to long term. However, improvements to the A27 will be required to support the development and also help to mitigate the impact on the Ashdown Forest.

WDC outlined the possible options which include increasing proportionally smaller settlements and also the possibility of creating large urban extensions and/or new settlements. These figures do not take into account land availability and need to be tested.

WDC indicated that the results of the monitoring on the Forest may lead to the conclusion that we may have no growth. The main strategy is to reduce the baseline traffic across the Forest to allow some growth, or to find some form of mitigation to allow additional traffic from new development. The results of this work will hopefully be available in time for the Issues and Options consultation in October. WDC may have to look at radical solutions to mitigate the impact on the Forest and this will need to be built into looking at reasonable alternatives. One solution will be to look to improve the A27 to provide a better alternative route away from the Forest. If the second runway at Gatwick is approved then this will also increase the traffic movements.

Constraints to development

WDC outlined the current position with regard to the Ashdown Forest. This is the biggest constraint for the district. The main constraint for growth is nitrogen deposition (especially along the A26). Monitoring stations have been
set up on the Ashdown Forest and ecological studies are being undertaken. The results of this will not be known for approx. two years and we will therefore not know whether there is additional capacity for growth in the north of the district beyond that outlined in the Core Strategy.

WDC are in the process of commissioning consultants to undertake traffic modelling work to assess the impact of traffic movements across the whole district, and surrounding local authorities, and the impact this has on nitrogen deposition on the Ashdown Forest. The inception meeting is imminent – WDC are just waiting for procurement to officially appoint the consultants before this can take place.

WDC indicated that the results of the monitoring on the Forest may lead to the conclusion that we may not have any growth. The main strategy is to stop traffic flows through the Forest and look at mitigation to reduce any impact. The development outlined in the Core Strategy is the maximum level of growth that is acceptable without mitigation.

WDC updated on SANGs/ SAMMs;
- Planning permission has been resolved to be granted at South East Crowborough and Uckfield with SANGs attached. Both are awaiting SAMMs;
- WDC are waiting to hear about the Steel Cross appeal decision. It is likely to be in July now that a decision will be made to withdraw the Strategic Sites Local Plan;
- There is an appeal at Groombridge for which we have requested an inquiry take place.

WDC confirmed that WDC are hoping to circulate the SAMM strategy and legal agreement in the next couple of weeks. A meeting of the key decision makers is requested to take place after comments have been received on the strategy – hopefully in August. MB requested that MSDC confirm to WDC that the information provided to WDC on s106 contributions is the most up to date.

WDC confirmed that notes from the meetings with the Ashdown Forest Conservators have been circulated.

WDC confirmed that Natural England would like to see the strategy first before it is circulated to other authorities.

WDC are in negotiations with landowners to secure an additional SANG in Uckfield but this is highly confidential. This will provide capacity for windfall development. WDC are trying hard to secure the site but negotiations are ongoing.

MSDC enquired whether the SANGs at Crowborough and Uckfield have a larger capacity than the development attached to them. WDC confirmed that WDC are currently looking at this.
WDC confirmed that WDC will be undertaking another visitor survey which can be part of the SAMMs requirements and Natural England are keen for this to be undertaken as soon as possible and link to bird monitoring.

WDC updated on the High Court and that one outcome could be that WDC could lose the policy on SANGs/ SAMMs and that we could be looking at a larger zone of influence that the 7km. WDC will let MSDC know once a decision has been made. A decision is likely to be made in July.

**Non residential development**

WDC confirmed that the employment focus will be in the south of the district but there will still be a level of rural employment. The more industrial development will be focussed on the A27 corridor which adds to the pressure for improvements to the A27 and also potential rail links.

MSDC indicated that MSDC has no retail need and the employment needs are also being met (which includes some of Brighton & Hove’s and Crawley’s need).

**Other**

MSDC enquired whether ESCC have been working on infrastructure provision should the second runway at Gatwick be approved. Surrey and West Sussex have been working on this. MSDC indicated that she was not aware of any such work.

MSDC updated on MSDC Local Plan and the OAHN. Confirmed that they are sticking with the DCLG household projection figure. They do not think it is reasonable to add on an element for market factors. They have spoken to PINS and they have analysed the approaches other examiners have taken on this. There is no overall pattern. MSDC have no evidence to add on market signals and their sustainability appraisal confirmed that 700 is the maximum they could go to on sustainability grounds. Their need is 656 and their supply is 650.

WDC confirmed that WDC would send through the notes of the meeting for approval and a full scoping report would follow outlining the issues for comment.

WDC confirmed that the information provided from this meeting would input into the Wealden Local Plan preparation.
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   ii. Gypsy & Traveller accommodation
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Proposed update of Wealden / Mid Sussex MoU

Sent: 1 December 2015 15:22

From: MSDC

To: WDC
CC: MSDC

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2 Attachments

- RE Mid Sussex District Plan (135 KB); Duty to Cooperate MoU WDC MSDC 01 12 15 v3 DRAFT.doc (46 KB);

Hi WDC

Further to email of 30th October (attached) and the consultation letter which you should have received from us concerning our District Plan ‘Focused Amendments’ consultation, we should like to take this opportunity to update our duty to cooperate MoU with you. I have therefore attached an updated version of the MoU with the changes ‘tracked’. Would you be able to update your sections as appropriate, please?

If you would like a meeting to discuss either the MoU or our Focused Amendments, do please get in touch. And if there are any aspects of these Focused Amendments to the Plan that concern you, we would welcome the opportunity to discuss these during the consultation period and before you formally submit your response.

Many thanks

www.midsussex.gov.uk

Working together for a better Mid Sussex
Dear colleagues,

Please see the attached letter for an update on the Mid Sussex District Plan. I hope you will support us in the forthcoming 'focused amendments' consultation.

Regards,

MSDC

www.midsussex.gov.uk

Working together for a better Mid Sussex

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ensure appropriate planning for the cross-boundary strategic planning issues that exist and/or are likely to arise in the foreseeable future between the two Councils.

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Mid Sussex District Council is preparing a revised version of its District Plan for the period 2014-2031. There was public consultation on this draft Plan from November 2014 until January 2015. It was published in June 2015 and will be submitted to the Secretary of State in early 2016 following public consultation on a schedule of ‘focused amendments’ to the Plan in November/December 2015.

Mid Sussex District Council is also preparing a Traveller Sites Allocations Document for the period to 2031. There was a public consultation on this draft Document in August/September 2014. It is anticipated that it will be published in 2016 following further appraisal of potential suitable sites.

Wealden District Council is at examination with its Affordable Housing Delivery Local Plan, which was submitted in March 2015. An additional examination date has been set for Monday 11th January 2015. The timescale for adoption is April 2016. A new Local Plan, which will encompass a review of the adopted Core Strategy, referred to as the Wealden Local Plan, is underway and anticipated to be adopted in 2018. Consultation on the Issues, Options and Recommendations for the Wealden Local Plan (incorporating the Hailsham Area Action Plan and Conservation Areas) is currently underway ending on 14th December 2015.

**Strategic Planning Issues**

The following have been identified as Strategic Planning Issues:

- Housing
- Gypsies and Travellers
- Ashdown Forest Special Protection Area and Special Area of Conservation

**Liaison and working arrangements**

Wealden District Council and Mid Sussex District Council have been working together through the following mechanisms:

- the High Weald Area of Outstanding Natural Beauty Management Board
- formal consultation as the respective local plans have progressed
- joint Strategic Access Management and Monitoring (SAMM) Strategy

The following meetings were held just between the two authorities to discuss their emerging plans and agree this Memorandum of Understanding:

- 24th June 2014 (officers)
- 9th July 2014 (Cabinet Members)
- 3rd February 2015 (officers)
- 16th April 2015 (officers)
Outcomes

Mid Sussex

Housing

Consultants commissioned by MSDC have undertaken a sustainability assessment of cross-boundary options for the Mid Sussex District Plan and, as part of this process, MSDC wrote on the 5th August 2014 to neighbouring local planning authorities, including Wealden DC, to establish whether they have unmet needs that they are seeking assistance with, and the detailed nature of any such needs. WDC responded on the 22nd September 2014 to say that there was a potential shortfall of about 3,500 dwellings over the plan period of 2006-2027.

The results of the sustainability assessment were shared with the neighbouring authorities including WDC. MSDC has also shared the results of its updated work on housing need and supply. This evidence was revised in November 2015 and indicated an objectively assessed housing need of 695 homes per annum 2014-2031 and a potential supply of 800 homes per annum over the same period. The sustainability assessment advises that any supply in excess of local need (currently 105 homes per year) is most likely to be absorbed by Crawley and Brighton & Hove, which have the strongest economic and functional links with Mid Sussex.

WDC confirms that the Sustainability Assessment of Cross-Boundary Options for the Mid Sussex District Plan (February 2015) is acceptable to the Council.

Gypsy and Traveller Accommodation

The need for permanent Gypsy and Traveller accommodation in Mid Sussex is assessed to be 34 pitches (2011-2031). No need exists for Travelling Show People accommodation. The quantum of sites proposed in the Traveller Sites Allocations Document is considered sufficient to meet this need without there being any dependency on other authorities.

Ashdown Forest Special Protection Area (SPA)

Both authorities are working towards agreeing a joint SAMM Strategy to help mitigate the effects of increased recreational pressure on the SPA from new housing and any other relevant development in the vicinity of Ashdown Forest.

Wealden District Council

Wealden District Council has commenced work on its new Local Plan incorporating the review of the adopted Core Strategy, referred to as the Wealden Local Plan. An Issues, Options and Recommendations document was published in October 2015.

As part of the evidence base for the Wealden Local Plan a Strategic Housing Market Assessment (SHMA) has been undertaken which identifies that Wealden shares a Housing Market Area with Eastbourne Borough, Tunbridge Wells Borough, Rother District, Lewes District and Mid Sussex District. The SHMA identifies an additional
number of houses required in the District to be between 13,200 and 14,700 between 2013 and 2033. The objectively assessed housing needs and current under supply of the identified Housing Market Area have also been assessed based on current plans and the most recent evidence. Not including Wealden District, the current undersupply is calculated to be approximately 12,000 dwellings. For the purposes of decision making the Objectively Assessed Housing Need for Wealden District is 735 dwellings per annum, but for plan making we are considering if it is possible to accommodate 832 dwellings per annum, in order to help meet a proportion of the undersupply within Eastbourne Borough.

Both authorities have reviewed each other’s evidence bases and emerging Plans and are satisfied that each has considered all relevant opportunities to seek to meet the housing needs of its Housing Market Area.

**Ongoing Cooperation**

It is agreed that the two authorities will continue to actively and diligently cooperate on all cross-boundary planning matters with a view to achieving the proper planning of the wider area. They will also share their respective local plan timetables with each other as these are updated.

Signed:

[Signature]

Wealden District Council

Dated: 2\textsuperscript{nd} February 2016

[Signature]

Mid Sussex District Council

Dated: 15\textsuperscript{th} February 2016
Dear Colleagues,

**Mid Sussex District Plan - Update**

As you are aware, we have been working on our District Plan and published a pre-submission plan in the summer. We received 299 responses to this consultation including, as expected, some representations from the development industry suggesting that the Council's housing number should be increased. We have carefully considered all of the representations received and verified the arguments put forward.

Since the pre-submission plan was agreed, there have been a number of local plan examinations nationally and locally where Inspectors’ findings have been published. Of particular relevance to Mid Sussex are the examinations of Horsham’s and Crawley’s plans since these local authority areas form the Northern West Sussex Housing Market Area. We have carefully reviewed the outcome of these inspections and considered the implications for the Mid Sussex District Plan.

The national landscape has also changed since the General Election. There has been a clear drive from Central Government to increase housing supply, led by the Prime Minister’s commitment to deliver one million homes by 2020. This national context is important and will influence the outcome of our examination.

In this context we have robustly reviewed our evidence, in particular the Sustainability Appraisal work and housing supply document, and challenged this against the requirements of paragraphs 14 and 182 of the National Planning Policy Framework. Having carefully considered all the aforementioned factors the Council is proposing to increase the objectively assessed need for housing in Mid Sussex to 695 dwellings per annum, to include an allowance for vacancy rates and market signals, and to increase the provision number to 800 dwellings per annum. This will enable the Council to provide 105 units per year towards the unmet needs of neighbours. The increase in housing numbers will be supported by the allocation of an additional strategic site.

A report will be taken to the Scrutiny Committee for Planning and Economic Development on 10th November and Council on 11th November recommending that Members agree modifications to the District Plan for a 'Focused Amendments' consultation from 15th November – 31st December. The Plan will be submitted for examination following this consultation.

Please get in touch if you have any queries or questions.

Yours sincerely,

[Signature]

MSDC

*Working together for a better Mid Sussex*

---

Head of Economic Promotion and Planning
RE: High Court Judgement - Steel Cross Crowborough

Sent: 18 February 2016 12:05
From: MSDC
To: WDC

WDC

Thanks The AONB bits in here were also interesting given our allocation at Pease Pottage. Was there any discussion about the Inspector’s view that this was a poor bit of the AONB anyway?

Regards,

MSDC

www.midsussex.gov.uk

Working together for a better Mid Sussex

From: WDC
Sent: 17 February 2016 16:07
To: MSDC
Subject: High Court Judgement - Steel Cross Crowborough

Hello MSDC

You may recall in our Duty to Cooperate meetings I mentioned the Steel Cross appeal, and its implications regarding in combination assessments concerning Ashdown Forest SAC. As a result of the appeal permission was granted, and the Council found it necessary to take the matter to the High Court. We received the judgement today which is in the Council’s favour. There are a number of matters raised with regards to Ashdown Forest that may be of interest to you and therefore I am attaching the judgement for your information.

Kind regards

WDC

Wealden District Council | Council Offices | Vicarage Lane | Hailsham | East Sussex | BN27 2AX
Web. www.wealden.gov.uk/planningpolicy
Hi [Redacted] MSDC

Thanks for this information [Redacted] was dealing with our retail work and would have been the best person to speak to regarding this issue, however, he has now left the District Council. I would suggest contacting [Redacted] now - MSDC

I believe that Carter Jonas actually undertook our recently updated retail study so they may actually know the most about the matter!

I hope this helps, but let me know if you need anything else.

Kind regards,

[Redacted] MSDC

www.midsussex.gov.uk

Working together for a better Mid Sussex

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From: [Redacted] WDC
Sent: 13 July 2016 09:36
To: [Redacted] MSDC
Subject: Wealden District Economy, Retail and Town Centre Study

Hi [Redacted] MSDC

We are currently undertaking a study regarding the above. Our consultants Carter Jonas and Regeneris would like to contact Mid Sussex District Council to discuss the study under the duty to cooperate. Who would now be the best contact for this?

Kind regards

Wealden District Council | Council Offices | Vicarage Lane | Hailsham | East Sussex | BN27 2AX
Web. www.wealden.gov.uk/planningpolicy

Communities
Environment
Economy

www.wealden.gov.uk
Facebook
@wealdenDC

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Wealden District Council

The information contained in this email may be subject to public disclosure under the Freedom of Information Act 2000. Unless the information contained in this email is legally exempt from disclosure, we cannot guarantee that we will not provide the whole or part of this email to a third party making a request for information about the subject matter of this email.
Dear All,

I thought I would let you know that we are introducing a new interim approach to assessing planning applications for their potential impact on the Ashdown Forest SAC. Every planning application will be assessed under the Habitats Regulations for its potential traffic impacts on Ashdown Forest. This is an interim approach until the District Council receives further guidance or further evidence becomes available.

We have published information on the Mid Sussex District Council website outlining the interim approach: [http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/](http://www.midsussex.gov.uk/planning-licensing-building-control/planning/ashdown-forest/)

Also, the agenda for the District Plan Examination Hearings next week is available on the MSDC website, and Ashdown Forest is the first item: [http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/](http://www.midsussex.gov.uk/planning-licensing-building-control/planning-policy/local-development-framework/district-plan/district-plan-examination/)

I hope you find this update helpful, but please do let me know if you have any questions or if you would like further information.

Kind regards,

MSDC

[www.midsussex.gov.uk](http://www.midsussex.gov.uk)

Working together for a better Mid Sussex
FW: Ashdown Forest Visitor Survey

Sent: 7 December 2016 11:58

From: WDC TWDC/LDC/SDC/TWDC/TDC/WDC/
To: Natural England
CC: MSDC

Note: Attachments may contain viruses that are harmful to your computer. Attachments may not display correctly.

Dear MSDC

Further to your recent correspondence, as you are aware, the visitor survey was undertaken in the summer using an approach that was agreed by all partner authorities involved in the work. Whilst Wealden District Council led the procurement process and project managed the contract, all partner authorities and Natural England were openly invited to review and contribute to the project brief, the method, the survey questionnaire and the draft reports. This collaboration was seen as important and necessary given the importance of this piece of work in terms of informing each local authorities Ashdown Forest mitigation policy (as relevant) but also so that we can work together in partnership and as part of Duty to Cooperate to resolve a strategic cross boundary issue.

In relation to the 2016 Visitor Survey Report we are extremely surprised that you have raised such concerns. The methodology used is almost identical to the Ashdown Forest visitor survey in 2008 procured by yourselves and also the visitor survey at your SANG site. More importantly the visitor survey report draws no conclusions nor does it provide statistical analysis. The report simply provides factual information from visitor interviews and therefore we consider that your concerns raised to be irrelevant in this case. We also have a number of concerns regarding your alternative methodology.

Notwithstanding this and whilst outside the scope of the visitor survey contract, as requested we asked Footprint Ecology to consider and respond to the points that you make. Footprint Ecology have kindly responded at no cost to us / partner authorities on this occasion. The response is below for your information. The response reassures our position and confirms that the method used is robust and tested and meets our evidence base needs for the purpose of understanding recreational use of Ashdown Forest. We are also reassured by the approach having been accepted and tested across the country as well as the confirmation from Natural England that the work is satisfactory and that they consider that the report provides a good evidence base. (As set out in the email of today also).

http://archivemanager.wdc.gov.uk/app.html#message/a46e9ba28-9e9f-74e2-f83c-d893b626fe70

MSDC31
As contract lead we consider that the Consultants have fully met the specification brief and on this basis we are unable to withhold payment. Should you wish for any further work to be undertaken or any further clarification then this will either need to be undertaken by yourselves or as an extension to the existing contract (in accordance with procurement rules) as agreed by partners. For either option we would welcome a discussion as part of Duty to Cooperate.

The report has also been updated in relation to the map reference and also updating mapping requests from Tunbridge Wells. Please see the attached Final Report. In considering that all matters in your email have been addressed we will be invoicing all partner authorities shortly.

We note that Jennifer is no longer able to attend the arranged meeting on 14th December. Would it be possible to reconsider attendance, so that we can continue to progress Ashdown Forest SPA matters in a way that allows other partner authorities to progress in accordance with their Local Plan timetables and to assist in securing a partnership approach to SPA mitigation.

As always we would be happy to discuss any of the above matters should you wish for further clarification.

Kind regards

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From: Footprint Ecology
Sent: 05 December 2016 14:45
To: WDC
Subject: RE: Ashdown Forest Visitor Survey

HI WDC

Thanks for forwarding. I’ve looked through the email correspondence and can respond with the following.

The point being made seems to be a suggestion that the sampling is not random in that visitors who visit frequently or who stay longer are more likely to be interviewed. As the interviews were conducted at car-parks/access points the dwell time is unlikely to affect sampling much as someone visiting for an hour or 5 hours is reasonably likely to spend a similar amount of time at the car/entry point. Activities that are particularly concentrated at car-parks (picnics near the car for example) may be slightly more likely to be picked up but I don’t think this is really an issue as most visitors were walking, dog walking etc. Individuals who visit frequently are more likely to be interviewed than individuals who visit less frequently – i.e. someone who visits once a month is less likely to be interviewed than someone who visits every day. I struggle to understand the need for any kind of weighting however or how such weightings might be incorporated into the results.

It might be helpful to consider the following hypothetical example. Imagine there was a large city with lots of people 15 miles away from Ashdown Forest, no other settlements in between and some local housing around the edge of Ashdown Forest. Surveys were conducted on a given day and just two people were counted visiting and both were interviewed: one
interviewee lives nearby and visits every day and one interviewee lives in the city 15 miles away and visits once a month. From those survey results we might extrapolate to say that the interviewee who visits once a month makes around 12 visits per year and the other interviewee who visits daily something like 365 visits per year. If that sampling was representative and random we might therefore expect to always interview two people, the same individual who visits daily and a number of different people who visit once a month. The number of individuals visiting Ashdown Forest in a year would be around 31 (i.e. assuming around 30 days per month) and the number of visits made by those people would be around 730 (365x2). The need for a weighting is only necessary to estimate the number of individual people who might visit Ashdown Forest, and that is not relevant to the report. I suspect the Windermere example cited in the email did relate to calculating the number of individuals.

We have fully discussed the limitations in the report, and do not accept “that the results [to] do not allow any safe conclusions on frequency of visit”.

I’d also like to make the following additional points:

- We were invited to tender to do an onsite survey and at no point was a postal or similar survey suggested. We have undertaken postal surveys at other European sites but in all cases these were in addition to on-site surveys. In all cases those surveys did provide useful additional information, but the surveys were costly and logistically challenging and a key issue is ensuring a random sample of respondents. We typically achieve around 20%-25% responses in a postal survey – the surveys we’ve undertaken have involved maildrops to 5000 randomly selected addresses. They have involved reminders and prize incentives to achieve the 1 in 4 response rate and it is likely that those who respond are those who have the time to respond.
- I cannot imagine how results from a household survey and onsite survey might be ‘triangulated’.
- We have used virtually identical survey methods across a suite of European sites where they evidence has been used to establish mitigation schemes or similar. Examples include Cannock Chase, North Kent Marshes, Solent, South-east Devon, Dorset Heath, Thames Basin Heath, North Norfolk, Lincolnshire Coast/the Wash etc. and the results have been scrutinised at a range of examinations, public inquiries and peer review. In all cases the survey results have stood up to scrutiny and in no case has an inspector or other party suggested any kind of weighting, ‘by the reciprocal of their selection probabilities’ or otherwise. We have advised Natural England at a national level regarding sampling and onsite surveys and we have worked with a range of statisticians – and the survey approach used is the result of 10 years of running such surveys at Footprint Ecology.
- Where it necessary to estimate new visits to Ashdown Forest as a result of new development we would have applied a distance weighting which would essentially be the same as accounting for frequency, this is how we made the predictions in the previous Ashdown Forest work (Clarke et al 2010).

The attachment does indicate that a map reference is wrong in para 6.4 and I have corrected that in the attached.

With thanks

Footprint Ecology

From: WDC
Sent: 02 December 2016 16:51
To: Footprint Ecology
Subject: FW: Ashdown Forest Visitor Survey

Hello
As discussed, I have included all communication for your information but see first email below from

I can confirm that we have paid the invoice for the visitor survey today. If you have a sentence or two it would be much appreciated.

Thank you and have a good weekend.

Wealden District Council | Council Offices | Vicarage Lane | Hailsham | East Sussex | BN27 2AX
Web: www.wealden.gov.uk/planningpolicy

From: [redacted] Sent: 02 December 2016 15:13 To: [redacted] Subject: Re: Ashdown Forest Visitor Survey

I note your response.

Please note we are seeking to raise genuine methodological concerns (which can be fully backed up by references if you really wish) which will relate to the robustness of the survey results. Our motive is purely that it should be a robust part of the evidence base. We had assumed that you would seek a formal response from the survey company and we will move from there. One option might be to include caveats around the limitations of the adopted approach. We still think this is the best way forward and hope this is the course of action you will follow. We have no wish to disrupt the partnership.

From: [redacted] Sent: Friday, November 25, 2016 10:36 AM To: [redacted] Cc: [redacted] Subject: RE: Ashdown Forest Visitor Survey

Hi [redacted] MSDC

Thank you for your email which raises some interesting points about survey methodology. Its sounds that there may be some merit in discussing these points but they are rather technical matters and so such arguments will I think need to be justified by reference to authoritative sources and precedent in relation to cases similar to Ashdown Forest SPA. It is not easy at present to see the relevance of the case that you cite but as you say

http://archivemanager.wdc.gov.uk/app.html#/message/46c99a28-9a9c-742e-883c-d8f8e6f0f5e4/2012/2018 11:00:50]
perhaps others such as footprint or possibly Natural England will have a view on this.

It is however quite alarming that you suggest not paying for the survey. I think there is some confusion here between contractual obligations and your acceptance of a report to be used/published. We have all, in the partnership agreed to commission the visitor survey and that survey having been completed and the report on it being provided in accordance with a brief that was agreed by all parties we are all obliged by the contract to pay our share for it. To not do so would be a breach of contract and make us liable to additional costs and legal expenses. This is not a course of action we could possibly support and I therefore urge you to seek advice from your legal department and reconsider this approach.

Whether the survey/report are now considered fit for purpose and/or ready to be published is another matter. Having paid for the work there is no obligation for any party to use it or to rely upon it although we had all hoped that that would be the case. What you suggest by way of further analysis is I believe beyond the original brief and comes after numerous opportunities to comment on both the brief and the output and is I suggest an entirely new piece of work. Whether this additional work is necessary or not is something that I would suggest the partnership can consider as part of ongoing discussions. However as suggested above in order for those discussions to be productive further information on this new approach should be provided.

Whilst Mid Sussex are of course entitled to change its view on these matters, such an abrupt change of view at this juncture does not bode well for a partnership approach which we have all agreed is essential to a clear and robust agreement to the benefit of all. I would urge you to continue with your extremely helpful and committed application to this work and seek a resolution as soon as possible.

Kind regards

[Redacted]

TWDC

Town Hall, Royal Tunbridge Wells, Kent, TN1 1RS
BOROUGH COUNCIL CONSULTATION: YOUR LANDSCAPE – YOUR VIEW
Upload images of your favourite landscape and win £50. We want to know what you think about the landscapes of the Borough - Go to Your View http://arc.is/2c5bR5 to find out more and to Your View to upload photos.

From: [Redacted] MSDC
Sent: 29 November 2016 09:45
To: [Redacted] WDC/LDC/ SDC
Cc: [Redacted] Natural England/WDC
Subject: Ashdown Forest Visitor Survey

Dear [Redacted] WDC

Thank you for your recent e-mails related to the Ashdown Forest Visitor Survey and the proposed meeting to discuss the strategic and co-ordinated approach to mitigation and the zone of Influence.

Unfortunately, due to work commitments related to the District Plan Examination, I will not be able to attend the December meeting. Please could you postpone the meeting until the new year.

[Redacted]
In addition to this we would make the following observations regarding the survey:

We have concerns about the way the survey has been conducted in terms of asking questions about frequency of visit and length of stay and any conclusions that are subsequently drawn from the findings.

This is because it is a very well-known issue in "intercept" sampling (as used in the survey – that is to say doing surveys at the attraction that is being examined, rather than the population) is that it is not an unbiased probability sample of the user population. A user who typically visits twice per week is twice as likely to participate in the survey as one who typically visits once per week, similarly a user who stays 3 hours is three times as likely to be interviewed as one that stays 1 hour.

The effect of the approach adopted is therefore to considerably overstate the frequency and length of visit. This has knock-on effects for other findings where factors are correlated to frequency of visit (for example if, hypothetically, car use or dog walkers were associated with more frequent users) or at least must cast some doubt on these other findings, but let’s hope this is not the case.

In general it is better to sample the population directly through residence/household surveys in the catchment, or in some cases to do both and ‘triangulate’ the findings.

Based on the method adopted, since the probability of sample is directly related to frequency and length of stay, we suggest that the results are expressed weighted according to the probability of sample. For example, a response from a person that visits just once in a given period should be weighted 10 times that of a person that visited. Put more formally sampled elements need to be weighted by the reciprocal of their selection probabilities. We would expect this weighted result to be shown alongside the simple average of findings.

While we accept that the simple approach to these issues adopted by the survey may be accepted for certain basic purposes, we are concerned that the results of this survey will fall under significant scrutiny. Therefore at the very least there should be acknowledgement of the limitations of the adopted approach and that the results to do not allow any safe conclusions on frequency of visit.

We raise this because we are aware that in the Lake Windermere Speed Limit Inquiry in 1994/95 this sampling issue became a major issue with the Inspector finding in favour of a weighted approach. In this case the opposition to the Speed Limit were claiming that the National Park Authority in using a correctly weighted approach based on a survey of lake users on the Lake Shore has underestimated the number of affected users. The Inspector definitively found in favour of the National Park Authority.

We think it would be very helpful if Footprint Ecology responded to these points. It may be that as a result of these comments, further work to the Visitor Survey may be required by the consultant and as a consequence this Council considers that the invoice should not be paid until this matter has been considered.

Also, I noticed in paragraph 6.4 [page 81] that a reference to Map 16 is made in the second sentence. I think this should be Map 19 as it refers to the map on page 82.
-----Original Message-----
From: Regeneris
Sent: 8 May 2017 15:41
To: WDC
Subject: RE: Wealden Economy Study - duty to co-operate note

Hi WDC

Please see the attached for the corrections.

The table below identifies the local authorities that have not provided any feedback. Hopefully it is all straight-forward.

Let us know if you have any questions.

Regeneris

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Regeneris

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MSDC37
Dear Sirs

Wealden District Council formal representation on the Main Modifications of the Mid Sussex District Plan 2014 - 2031

Please find below Wealden District Council’s response to the Main Modifications of the Mid Sussex District Plan 2014 – 2031. Comments relate to both legal requirements and soundness.

1.0 Consideration of the Plan alone and in-combination

1.1 The Habitat Regulations Assessment (HRA) of the Mid Sussex District Plan (September 2017) identifies that, in relation to atmospheric pollution on Ashdown Forest SAC, there is an increase of predicted traffic flows of 267 AADT on the A275 as a result of development proposed in the District Plan in combination with growth assumptions for surrounding Local Authority areas (paragraph 0.3.1). It is also predicted that there is a decrease of 27 AADT, 197 AADT and 263 AADT on the A22, A28 and B2210 respectively. This information on traffic flows (AADT) is then translated, through modelling, into nitrogen deposition and nitrogen and sulphur acid deposition on Ashdown Forest SAC.

1.2 In Table 5.3 (page 25 of the HRA) the reference case at 2031 is compared to the development case at 2031 which results in the AADT identified in paragraph 1.1 above. It is understood that the development case relates to the delivery of the Mid Sussex District Plan without a stepped increase in housing delivery in the future. It is stated in paragraph 5.4.13 (Of the HRA) that the transport model includes completions, commitments and allocations in the Mid Sussex District Plan and Neighbourhood Development Plans, the delivery of growth in accordance with the settlement hierarchy and a proportionate windfall allowance at 2031. The reference case represents forecast baseline traffic flows at 2031. There is no specific mention as to what is included in the reference case or the development case within the HRA. Examination paper MSDC 18 (paragraphs 51 and 52) implies that consented development in Mid Sussex and NTEM forecasts for neighbouring authorities are used within the reference case, although it is not clear if this is the case within the work undertaken for the modifications. There is no mention of any completions, commitments, allocations or any other growth as relevant to other local authorities as part of the development case.

1.3 In general, in order to calculate the additional AADT from a plan alone, the modelled AADT without the plan at the end of the plan period is compared to the AADT at the end of the plan period with the plan. This appears to have
taken place as part of the HRA and is shown in Table 5.3. In this case the reference case and the development case at 2031 are compared and the resulting AADT is used within the assessment. Without specific knowledge of what is included within the reference case and the development case, the AADT used within the HRA appears to be of the plan alone.

1.4 If the reference case definition in MSDC 18 is used, which includes consents within Mid Sussex, and the development case also includes consents within Mid Sussex the resulting (AADT) figure would not include development with consent in the plan alone figure\(^1\). This requires further clarification as development with consent would not have been included in the assessment of the plan alone.

1.5 Notwithstanding the issues raised above as to what is included in the reference case and development case to determine additional AADT of the plan alone, using the traffic data from Mid Sussex District Council Impact of Mid Sussex District Council Plan Traffic at Ashdown Forest Air Quality Assessment (October 2017) the in combination (2031 do something data minus base line at 2014) would be: A275 = 1,535 AADT.

1.6 As the AADT used within the HRA is for the Mid Sussex District Plan alone, as opposed to in combination, then it follows that the air quality modelling is for the plan alone.

1.7 Further to this, the study shows that there are decreases of traffic flows on the A22 and A26. This is not in conformity with work undertaken by Wealden District with regards to its adopted Core Strategy (2013) or indeed Lewes District Council and South Downs National Park with regards to the Joint Lewes District Core Strategy. Both Plans contributed to an additional flow of 1,091 AADT on the A26. It is appreciated that development may change the patterns of traffic movement. However, it is not expected that the delivery of additional growth within Mid Sussex District and the resultant changes in traffic behaviours that take place as a result of this would have a positive impact on traffic movements in Wealden District. It is certainly not expected that this would occur to the extent that an increase of over 1000 AADT (Wealden District traffic movements combined with Lewes District traffic movements) on the A26 would become -27 AADT as a result of the growth provided in the Mid Sussex District Plan. Therefore it can only be concluded that the AADT and the resulting air quality modelling results used within the HRA are for the plan alone and do not consider contributions from other local authorities.

1.8 Regulation 102 of the Conservation of Habitats and Species Regulations 2010 states that Where a land use plan (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site’s conservation objectives.

1.9 It is submitted that for both the consideration of whether the plan is likely to have a significant effect on a European site or where an appropriate assessment is carried out the plan either alone or in combination with other plans or projects must be considered. **It can only be concluded that the HRA has not undertaken an in combination assessment as required.**

2.0 Traffic flow conclusions

2.1 Notwithstanding the fundamental issue of the need for an in combination assessment, there is also a query with regards to how traffic is distributed leading to an increase in AADT on the A275 and a decrease on the remaining roads. The attached plan shows that the A22 is the only main road that connects to the A275. Therefore it would be expected that the A22 would have increased traffic flows linked to the increase on the A275 as not all traffic would filter onto local roads bearing in mind the type of local roads involved. It is considered to be illogical that there would be no increases on the A22/ A26 and indeed a reduction. **Further information with regards to traffic distribution is required.**

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\(^1\) This is because they would in effect cancel each other out.
3.0 Consideration of Likely Significant Effect

3.1 It is not clear from the HRA what level of assessment has been undertaken. Paragraph 5.4.20 states that an increase of 0.4% of the minimum critical load is not considered to be ecologically significant. It is concluded that "The overall effect of the District Plan’s process contribution to pollution deposition within qualifying SAC habitats can be considered neutral".

3.2 Notwithstanding the lack of in combination assessment, it appears that the assessment relies upon the Environment Agency’s derived 1% process contribution. However there is no specific conclusion that there would not be a likely significant effect. Even if this were the case, it is not explained as to why this increase in critical load does not have the potential to affect the SAC. It can only be concluded that in the absence of scientific certainty with regard the 1% process contribution that there is a likely significant effect.

4.0 Consideration of Appropriate Assessment

4.1 Paragraph 5.7.1 of the HRA is a section that “assesses whether the District Plan can be expected to adversely affect the ecological integrity of the Ashdown Forest SAC as a result of atmospheric pollution impacts.” The phrasing of this sentence, with reference to Regulation 102 of the Conservation of Habitats and Species Regulations 2010, leads to a conclusion that an appropriate assessment is being undertaken. Therefore, it can only be assumed that there is a likely significant effect. The appropriate assessment is a page in length. In terms of the conservation objectives there is no analysis to explain how the conclusions that integrity is not affected have been made particularly when the critical load has been exceeded.

4.2 The David Tyldesley and Associates (DTA) Handbook identifies that European case law has established that in the circumstances of the cases considered, an assessment cannot be regarded as 'appropriate' if it:

   a. Is merely a summary or broad-brush assessment of the implications;
   b. Is a selective examination not taking account of all material points;
   c. Is incomplete;
   d. Leaves important matters still to be assessed;
   e. Does not contain a complete list of the qualifying features present in the site which are likely to be affected;
   f. Contains findings that are preliminary in nature, lacking definitive conclusions;
   g. Lacks sufficient precision;
   h. Fails to provide conclusions capable of removing all reasonable scientific doubt as to the effects on the site where the competent authority is minded to proceed with the project;
   i. Lacks adequate information or reliable and updated data concerning the qualifying features.

4.3 Further, MANAGING NATURA 2000 SITES The provisions of Article 6 of the ‘Habitats’ Directive 92/43/EEC (European Commission) report states:

   In the first place, an assessment should be recorded. A corollary of the argument that the assessment should be recorded is the argument that it should be reasoned. Article 6(3) and (4) requires decision-makers to take decisions in the light of particular information relating to the environment. If the record of the assessment does not disclose the reasoned basis for the subsequent decision (i.e. if the record is a simple unreasoned positive or negative view of a plan or project), the assessment does not fulfil its purpose and cannot be considered ‘appropriate’. (European Commission Page 35).

4.4 Based on guidance identified above it is considered that the content of the appropriate assessment contained within the HRA is not ‘appropriate’ owing to the lack of any analysis and lack of reasoned arguments against the conservation objectives.

5.0 Further information to note

5.1 Wealden District Council has placed in the public domain the methodology used to model the air quality arising from growth within the Wealden Local Plan. This data was not released until after the publication of the
HRA of the Mid Sussex District Plan. This follows a bespoke methodology arising from extensive work on Ashdown Forest and looks at a wider range of pollutants. The work undertaken on behalf of Wealden District Council therefore cannot be compared to this study which uses a standard modelling methodology. In addition, habitat mapping has been produced by Wealden District Council, which differs significantly from the information provided by the conservators of Ashdown Forest and as presented within the Mid Sussex HRA. The habitat map commissioned by Wealden District Council has been in the public domain since December 2015 and was created using satellite imagery from two satellites, SPOT5 and Worldview2 for mapping the extent of heathland. This map has not been considered as part of the HRA. Wealden District considers this information to be more up to date and comprehensive than that contained within the Mid Sussex HRA. Please also note that Wealden District has also commissioned an update to its habitat map, however, this is not yet published.

5.2 It is also noted on 31st October that a consolidated version of "The Conservation of Species and Habitats Regulations 2017" was laid before Parliament. The new Regulations will cover England and Wales and their territorial waters out to 12nm.

5.3 The new Regulations will come into force on 30th November 2017 (after submission of this representation) and will replace the 2010 Habitats Regulations which will change the Regulations. Regulation 102 will become Regulation 105.

6.0 Conclusion

6.1 In conclusion it is considered that:

1) The assessment contained within the Habitat Regulations Assessment is of the plan alone and has not included an in combination assessment as required by The Conservation of Habitats and Species Regulations 2010. Therefore the Habitats Regulation Assessment is fundamentally deficient to that required by the legislation. Further information is also required to determine which parts of the plan have been included within the assessment of the plan alone.

2) The reduction in trips on the A22/A26 is not logical when there is an increase in trips on the A275 and further explanation or investigation is required.

3) Even if the plan is considered alone it is submitted that there is not enough evidence to conclude there is not a likely significant effect. In the absence of an appropriate assessment the Plan does not meet the Conservation of Habitats and Species Regulations 2010 (as amended) and therefore should not progress.

WDC