Wealden Local Plan

Duty to Cooperate
Background Paper - Appendix LDC

Submission Document

January 2019
How to Contact Us

Planning Policy
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-----Original Message-----
From: [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] WDC
Sent: 10/03/2011 15:46:46
To: [Redacted] [Redacted] [Redacted] [Redacted] [Redacted] LDC, [Redacted] [Redacted] Natural England
Subject: Notes of Meeting

LDC

As discussed I have made a few changes (just for clarification).

WDC
Meeting with Wealden District Council and Natural England regarding Habits Regulations Assessment of European Sites – 9th March 2011

In attendance
Natural England
WDC
LDC

Purpose of the meeting
1. To discuss the findings of Wealden District Council’s HRA, particularly those relating to the air quality impacts on the Ashdown Forest SAC/SPA and Lewes Downs SAC.
2. To discuss the provision of Suitable Alternative Natural Greenspace (SANGs) which WDC will require from developers for development within 7km of the Ashdown Forest.

Issues of note
- Natural England (NE) explained that in order to determine likely significant effect LDC are we would not have to work out the anticipated traffic levels on areas around the protected sites in combination with Wealden District Council (WDC) and Mid Sussex DC. Instead, we are required to work out the individual process contribution from development within Lewes District. Both NE and WDC stated however that very careful wording in our HRA would be needed around this point in order to be in accordance with the Habitat Regulations.
- Should the trips arising from the Core Strategy’s process contribution be found to be below 1,000 annual average daily traffic additional daily trips then, according to guidance found in the Design Manual for Roads and Bridges, we could assume that it would not have a likely significant effect have a neutral affect in relation to air quality on roads local (within 200m) to the protected sites and thus would not be required to propose mitigation measures.
- Policies for the mitigation/reduction of air quality in relation to the Core Strategy’s affects are difficult and may not achieve much in the way of mitigation/reduction. Any policies likely to be featured are for the promoting of sustainable transport modes over private vehicle use.
- WDC did not include trips from windfalls when calculating their traffic levels but did include existing commitments. This was supported by NE, citing too much uncertainty. However, it was acknowledged that based on the precautionary principle that mitigation measures have been included in the WDC HRA for the Core Strategy.
- With support of NE, WDC have stated in their HRA that they will require residential developments within 7km of Ashdown Forest to provide SANGs, contributions for the management of Ashdown Forest and contributions for monitoring and research at the site. LDC explained that a small piece of the District lay in this area, including Newick (the second largest village in the administrative area).
Wealden suggested that if LDC are not seeking to allocate in this area in the Core Strategy specific policies concerning this issue could be accommodated in write such policies in a Site Allocations DPD for development in Newick or in the CIL charging schedule if not in the Core Strategy.

NE explained that if a site was able to provide a SANG on site this would be preferred (as long as it was in the 7km boundary from Ashdown Forest). If not, it was explained that there may be a possibility that contributions could be made for a SANG around Uckfield. However, it would need to be considered whether this would actually mitigate development in Newick.

When asked about the legality of development contributions being made to an authority unconnected with development in Newick, NE said that they would see how authorities around the Thames Basin Heath site had made their arrangements and report back.

NE also said that it may be found that the 7km boundary could be changed (made smaller) and thus the provision of SANGs for development in Lewes District would not be needed. They would report back to LDC on this matter.
-----Original Message-----

From: WDC
Sent: 07/11/2012 11:08:26
To: WDC
CC: WDC

Subject: Re: Fwd: Air pollutants and the Ashdown Forest

Hi LDC

Thank-you for getting back to me and also for your confirmation that Lewes DC are happy to contribute 5% towards this initial piece of work.

Kind regards

WDC

Hi LDC 07/11/2012 11:04 >>> LDC

We have no particular questions that we would like to raise. I can also confirm that we are happy to make a 5% contribution towards the cost of this initial piece of work.

Kind Regards,

LDC

>>> WDC > 07/11/2012 09:16 >>>

Dear all,

Further to my email last week (as below), if there are any relevant questions that you would like us to put to the Consultants during the interviews then please let me know them asap and no later then 1pm, if possible. I would be grateful if you could confirm either way.

Thank-you

WDC

>>> WDC 02/11/2012 09:25 >>>

Dear All,

Information attached is strictly confidential

I am writing to confirm that we have now received three quotations relating to the request for initial advice and the production of a methodology for the monitoring of nitrogen deposition on the Ashdown Forest SAC. We will be inviting all three Consultants to
interview to provide a fair opportunity for each Consultant to build on their submitted briefs.

I have attached the submitted quotes below together with a draft of the initial brief for ease of reference. Please note that I am providing the Consultant submissions on a **strictly confidential basis** and under no circumstances must this information be provided to any third parties. I am providing the submissions for ‘your eyes only’ so to speak.

In order to move swiftly forward interviews will be held on Monday 12th November 2012. Natural England are unfortunately unable to attend the interviews, however, I have sent the submission documents to [redacted] and I have asked whether Natural England would like to put forward any questions. I would like to offer this opportunity to yourselves also. So, if you have any questions that you would like us to ask the Consultants (that are specific to the brief and / or their submissions) then please forward them to me by no later than 5pm on Wednesday 7th November 2012 so that we can add the questions into the interview/evaluation process.

In addition to the above, if one Officer from Mid-Sussex District Council would like to sit in on the interviews then please let me know and I will let you know the exact times of the interviews.

We appreciate that your local authority does not currently have an issue in relation to nitrogen deposition on the Ashdown Forest. However, the work that we will be undertaking may be relevant to you in the future. As referred to by [redacted] in the WDC meeting of 25th September at Wych Cross we therefore propose the following contributions towards this **initial** piece of work for gaining advice / putting together a methodology for the future monitoring of nitrogen deposition.

Wealden - 60%
Mid-Sussex - 30%
Lewes - 5%
Tunbridge Wells - 5%

We would be grateful if you can confirm whether this is acceptable.

Kind regards

[Redacted]

Wealden District Council

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Any views expressed are not necessarily the views of Wealden District Council unless stated.

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This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify...
Thanks for putting this together, it's much appreciated. I have made a few relatively minor changes—these are shown as track changes in the attached. There are also a couple of comments (shown in italics). Hopefully these are fairly self-explanatory, but let me know if not.

My main comment is on the HMA and housing needs work. At the moment we are looking to publish amendments to our Core Strategy in the spring with the intention to submit in the Summer. We are basing our housing strategy on the work we have undertaken examining housing need with the Sussex Coast HMA authorities. Based on this it is unlikely (and it would be unrealistic to expect so) that this area of work for East Sussex is going to be completed before we submit. I would therefore be anxious to ensure that this area of work is undertaken in a way so as not to undermine the work we have already undertaken (and in turn our own housing strategy) — this is reflected in some of the changes that I have suggested and I’m sure that we can discuss this further as the work progresses.

Kind Regards,

LDC

Dear All,

Further to our discussion at the last Local Plan Managers meeting, I have drafted a report on the work programme for Duty to Co-operate. The report is based upon the papers discussed at the Local Plan Managers Duty to Co-operate meeting. As previously discussed, this report will go electronically to all members of East Sussex Strategic Planning Members Group for consideration. I would like to get this to the Members Group next week, so I would welcome any comments by the end of the week. If you have any problems with this deadline, please let me know.

WDC
Duty to cooperate: Statement of common ground
Cross-boundary working and meeting housing needs

This agreement is between:

- Lewes District Council
- South Downs National Park Authority
- Adur District Council
- Arun District Council
- Brighton and Hove City Council
- Chichester District Council
- Crawley Borough Council
- Eastbourne Borough Council
- Hastings Borough Council
- Horsham District Council
- Mid Sussex District Council
- Rother District Council
- Wealden District Council
- Worthing Borough Council

Map 1: Lewes district in context
1. Background

1.1 Section 110 of the Localism Act 2011 places a legal duty on local planning authorities and other prescribed bodies to cooperate with each other on strategic planning matters insofar as they are relevant to their administrative areas throughout the preparation of their development plan documents. The National Planning Policy Framework (NPPF) 2012 reiterates this duty and requires an independent inspector to assess whether the development plan they are examining has been prepared in accordance with the duty to cooperate.

1.2 It is expected that engagement and cooperation will be constructive, active and ongoing in order to maximise effectiveness throughout plan preparation as well as implementation, delivery and subsequent review. The national Planning Practice Guidance confirms that this is not a duty to agree but that local planning authorities should make every effort to secure the necessary cooperation on cross-boundary strategic matters before submitting development plan documents for examination. The examination will test whether the duty has been complied with.

2. Purpose

2.1 This statement of common ground sets out how Lewes District Council and South Downs National Park Authority have actively and positively sought to comply with the duty to cooperate in the preparation of the Joint Core Strategy development plan document on strategic planning matters, with the main cross-boundary factor affecting Lewes district being housing provision.

2.2 A summary of the processes and meetings undertaken with all relevant organisations in undertaking the duty is set out in the associated submission document Joint Core Strategy: Duty to Cooperate Compliance Statement (August 2014). Other relevant information on seeking to meet housing need in Lewes district is explained in the Joint Core Strategy Background Paper: Justification for the Housing Strategy (May 2014).

2.3 This statement also describes the established mechanisms for ongoing cooperation on strategic matters.

3. Housing Market Area (HMA)

3.1 Lewes district was identified in the South East Plan\(^1\) as forming part of the Sussex Coast HMA\(^2\), which is focused on the city of Brighton and Hove and extends from Bognor Regis in the west to Seaford in the east. This is not to suggest that Bognor Regis is in the same housing market as Lewes, but that the housing markets in this coastal strip overlap to such a degree that distinct

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\(^1\) South East Plan (2009) now revoked and archived
\(^2\) South East Plan (2009), now revoked and archived, diagram H1
boundaries cannot be defined. The extent of this HMA was reconfirmed in the Strategic Housing Market Assessment\(^3\) undertaken for the coastal West Sussex authorities in November 2012.

3.2 Research by the Department for Communities and Local Government showed that HMAs operate as an overlapping system of tiers and that it is not possible to precisely define the boundary of a specific housing market area due to the variety of methodologies that can be used\(^4\). Therefore a number of different permutations can potentially exist as Lewes district’s HMA.

3.3 Within the broad Sussex Coast area a distinct local HMA exists. This is focused on Brighton and Hove and exerts influence across most of Lewes district. Small parts of the district also have some overlap with the Eastbourne, High Weald and Crawley/Gatwick housing market areas, although for the vast majority of the district it is the Sussex Coast HMA that is of relevance\(^5\).

3.4 Two broader strategic HMAs\(^6\) have also been identified, again focused on Brighton and Hove.

1. The administrative areas of Brighton and Hove, Lewes, Adur, Worthing, Horsham, Mid Sussex, Crawley, Wealden\(^7\) and Eastbourne.
2. A broader Coastal Sussex HMA centred on Brighton and Hove stretching from Seaford along the coast to West Wittering and inland into the South Downs National Park to settlements such as Lewes and Midhurst, covering the administrative areas of Lewes, Brighton and Hove, Adur, Worthing, Arun and Chichester.

3.5 The District Council and National Park Authority have sought to work with all authorities forming part of the main Sussex Coast HMA, as well as those authorities in HMA’s where there is a degree of overlap.

4. Meeting objectively assessed housing needs

4.1 Despite extensive work, the Council and SDNPA consider that, due to extensive and well documented environmental and infrastructure constraints, objectively assessed housing needs in Lewes district cannot be met within the sustainable development requirements of the National Planning Policy Framework. This position will be tested at the examination of the Joint Core Strategy.

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\(^3\) http://www.arun.gov.uk/main.cfm?type=HOUSING#SHMA 2012
\(^4\) Geography of Housing Market Areas Final Report, DCLG (2010)
\(^5\) Housing Market Assessment of Lewes, DTZ (2008)
\(^6\) Coastal West Sussex Strategic Housing Market Assessment Update, GL Hearn (2012)
\(^7\) Wealden District Council wishes it to be noted that it has not been asked to agree this HMA or the Sussex Coast HMA. It is currently undertaking an independent assessment of its Strategic Housing Market Area as part of its Core Strategy review. Wealden District Council acknowledges the content of the Sussex Coast HMA work but considers that this must be without prejudice to the pending outcomes of its assessment of Wealden’s HMA(s).
4.2 In seeking to locate the unmet need elsewhere the local level HMA, whereby most of Lewes district relates intimately with Brighton and Hove, was considered first. This was followed by the wider Coastal Sussex HMA, starting with the most directly related authority areas. Unfortunately the other authorities face similar constraints to Lewes district, leaving them unable to meet their objectively assessed housing needs. It is very likely, as documented in the Sussex Coast HMA Duty to Cooperate Housing Study, that the Sussex Coast authorities will be unable to meet the combined housing need of the Sussex Coast HMA.

4.3 A ‘no stone unturned’ programme of additional work, seeking to reduce the gap between the district’s identified housing capacity and its housing needs for the plan period, was agreed by the council’s Cabinet. This work led to some focussed amendments to the proposed submission version of the Joint Core Strategy, including an increase in the proposed housing target from 4,500 to 5,600. Relevant information on seeking to meet housing need in Lewes district is explained in the paper, Justification for the Housing Strategy.

4.4 As, to date, neighbouring authorities and those authorities making up the Sussex Coast HMA have been unable to identify any potential to help meet Lewes district’s housing needs, broader strategic housing areas and routes to more innovative solutions for meeting the collective strategic housing need have been explored and implemented.

5. Compliance with the duty to cooperate

5.1 In the absence of government guidance (at the time) but taking account of evidence arising from Inspectors reports into Local Plans, together with the need to continue to progress the Joint Core Strategy, the council and SDNPA, together with partner authorities in the Sussex Coast HMA, took a pragmatic approach to addressing the Duty to Cooperate. This approach is considered to be consistent with the Planning Practice Guidance on the Duty to Cooperate, which was published in March 2014 after the cross-boundary cooperative working was already underway.

5.2 A Coastal West Sussex Partnership had previously been set up to strengthen the coastal economy, bringing together businesses and the public sector to work across administrative boundaries and form the foundations for future infrastructure delivery and growth. This existing partnership has been widened to include LDC and SDNPA as partners on the Coastal West Sussex and Greater Brighton Strategic Planning Board. Lead planning members for all the constituent authorities sit on the Board, which has an advisory remit and decisions made need to be ratified by the individual planning authorities.

5.3 The Strategic Planning Board is in place to:

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8 Joint Core Strategy Background Paper: Justification for the Housing Strategy (May 2014).

LDC10
• Identify and manage spatial planning issues that impact on more than one local planning areas across the Coastal West Sussex and Greater Brighton area; and
• Support better integration and alignment of strategic spatial and investment priorities in the Coastal West Sussex and Greater Brighton area.

5.4 The Board has signed a memorandum of understanding and agreed terms of reference as a framework for cooperation. It has also a Local Strategic Statement which sets out the long term strategic objectives for the period 2013-2031 and the spatial priorities for delivery in the medium term to support the delivery of regeneration, jobs and homes while protecting the high quality environment. It is proposed that the Local Strategic Statement will be reviewed and refreshed in October 2014.

5.5 Collaborative working among planning officers across East Sussex has been long-established through the channels of the Planning Liaison Group (chief planning officers), East Sussex Local Plan Managers Group and the East Sussex Development Management Forum. In addition, the East Sussex Strategic Planning Members Group (ESSPMG) was set up in 2013 to enhance and endorse cooperation at the political level. The group consists of the portfolio holders for planning assisted by officers from all local authorities in East Sussex, including SDNPA.

5.6 All ESSPMG member authorities are signatories to a memorandum of understanding, which was drawn up to formalise and give direction to ensure active, constructive and ongoing joint working arrangements. The memorandum of understanding sets out the group’s key purposes as raising awareness of cross boundary issues; and to explore any matters of concern to understand how they are affecting development and/or delivery of plans. Although the ESSPMG is primarily for East Sussex authorities, it is recognised that strategic planning issues do not constrain themselves to county boundaries and therefore neighbouring authorities attend meetings of the group if an issue is being explored that is relevant to that authority area.

5.7 Additionally the council and SDNPA have instigated or attended many meetings and events specifically or indirectly to address matters relevant to the duty to cooperate. A schedule of key meetings and joint-working, and their key outcomes, with local planning authorities and other organisations subject to the duty to cooperate is set out in Appendix 1 of the Duty to Cooperate Compliance Statement. These have facilitated constructive and active cooperation with the other authorities, in addition to existing mechanisms of cooperation such as consultation responses. These meetings include those held with the purpose of establishing an overall picture of housing need across the sub-region and determining whether any local

planning authorities had spare capacity to accommodate unmet needs from areas that were unable to meet their own needs such as Lewes district.

5.8 The Duty to Cooperate Compliance Statement has been circulated to all local planning authorities in East and West Sussex and no concerns have been raised.

5.9 The authorities agree that a series of officer and member level meetings and events have taken place, as set out in Appendix 1 of the Duty to Cooperate Compliance Statement, during the production of the Joint Core Strategy, covering matters relevant to the duty to cooperate. To date, no local planning authorities have indicated that they have identified surplus housing capacity that could assist in meeting Lewes district’s unmet housing needs.

5.10 The authorities agree that cooperation is an ongoing process and dialogue and partnership working will therefore continue in order to address cross-boundary strategic matters, including the issue of meeting development needs. Where a LPA has an unmet objectively assessed housing need, the LPA should demonstrate and justify why and to what degree it cannot meet the need prior to approaching other appropriate authorities with regard to accommodating the unmet need.

5.11 The Coastal West Sussex and Greater Brighton authorities are committed to cross-authority working in the pursuit of sub-regional and longer term solutions to meeting the housing needs of the Sussex Coast HMA. In this vein the Council and SDNPA are committed to a review of Spatial Policies 1 and 2 of the Joint Core Strategy if any options for this are demonstrated to be deliverable within Lewes District.

6. Housing Requirements for the Coastal West Sussex and Greater Brighton Sub-Region

6.1 The Coastal West Sussex and Greater Brighton Strategic Planning Board was established with the intent of identifying the extent of housing need and looking at options to meet it. To facilitate cross-boundary cooperation in addressing the issue, a joint Housing Study (Duty to Cooperate) has been produced by the local authorities that comprise the Coastal West Sussex and Greater Brighton Strategic Planning Board.

6.2 The study pulls together evidence from a range of individual studies produced by each authority to provide a consistent and objective assessment of housing requirements in each authority and across the Sussex Coast HMA addressing the need and demand for market and affordable housing.

6.3 The study concludes that the Sussex Coast HMA is highly unlikely to be able to deliver the full level of required housing development in light of the significant environmental, landscape and infrastructure constraints to

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12 Housing Study (Duty to Cooperate), GL Hearn (2013)
13 Arun District Council; Chichester District Council; Worthing Borough Council; Adur District Council; Brighton & Hove City Council, Lewes District Council and the South Downs National Park Authority.
development which exist. Strategic infrastructure constraints in the Sussex Coast HMA are still those which were identified and tested through the development of the South East Plan – particularly capacity issues along the A27, around the Chichester Bypass, Arundel and Worthing, as well as the A259. Equally there are a number of more local routes which are at or near capacity.

6.4 There is agreement between the Coastal West Sussex and Greater Brighton authorities that the evidence shows that, collectively, they are unable to meet the full objectively assessed housing needs. Current evidence implies that it may be feasible to accommodate a maximum of around 75% of the assessed level of need across the sub-region.

6.5 The most significant shortfall against objectively assessed needs is expected to arise in the area of the sub-region centred on the City of Brighton and Hove, including Lewes district, Adur and Worthing. This is primarily a function of geography with limited development potential in the areas between the national park and the sea.

6.6 This situation persists from that which existed during the preparation of the South East Plan (now revoked), which resulted in the South East Plan’s housing requirements for the authorities in the Sussex Coast HMA being set at least 27-30% below demographic projections.

6.7 In August 2013 a meeting took place between the Council, SDNPA, the West Sussex district/borough councils and Brighton and Hove City Council. The purpose of the meeting was to discuss a way forward, in accordance with the duty to cooperate, regarding seeking to meet the sub-region’s housing needs in the light of the levels of provision likely to be achieved through the recently adopted and emerging Local Plans. It was acknowledged that most LPAs are unable to meet their objectively assessed housing needs in their Local Plans because of recognised capacity constraints. Those authorities that anticipated being able to meet their own housing needs also experience capacity constraints such that they are unlikely to be in a position to accommodate the anticipated shortfalls arising in the other authority areas.

6.8 It was agreed that the authorities would continue to work together in order to identify, if possible, longer term strategic solutions to the identified shortfall of housing provision across the sub-region, including necessary strategic infrastructure and appropriate delivery mechanisms. This work would be undertaken on the understanding that each authority would look to meet future housing needs within their own local housing market area(s) first before looking at options beyond their market area(s) if necessary. Subsequently the Coastal West Sussex and Greater Brighton authorities signed a memorandum of understanding and produced its Local Strategic Statement, setting out the commitment and framework through which they will actively cooperate in seeking to address the sub-region’s housing needs on an ongoing basis.

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14 Housing Study (Duty to Cooperate), GL Hearn (2013)
15 Housing Study (Duty to Cooperate), GL Hearn (2013)
6.9 Wealden and Mid Sussex are neighbouring districts to Lewes but are not significant constituents of the Sussex Coast HMA. To date neither authority has identified that it may have capacity to help meet some of Lewes district’s unmet housing needs. Mid Sussex is currently working on a revised District Plan. Before setting its proposed housing target, Mid Sussex is undertaking an assessment of neighbouring authorities’ unmet housing needs and, as part of this process, Lewes District Council has provided details of its housing needs shortfall. This work will involve a sustainability appraisal, carried out by consultants, to assess the impacts of meeting unmet needs in Mid Sussex and the impacts on adjacent areas of those needs not being met. It is currently too soon for Mid Sussex to indicate whether it will be able to assist in meeting some of Lewes district’s unmet need. However collaboration at officer and Lead Member level is ongoing in accordance with the Memorandum of Understanding between the two councils and SDNPA.

6.10 Wealden has a Core Strategy (adopted February 2013) with a housing target that does not meet its own objectively assessed need, leaving Wealden unable to meet assist with meeting any of Lewes district’s unmet needs at the current time. Wealden’s Core Strategy will be subject to review in 2015 which will consider the environmental impact of potential development on sites of international importance and other constraints of the area. Wealden is currently at the early stages of undertaking a new Strategic Housing Market Area Assessment. While it is too early to know whether Wealden will be in a position to assist in meeting any of Lewes district’s unmet needs in the future, Lewes District Council and SDNPA are engaging with Wealden in this process and will also continue to work collaboratively through the East Sussex Strategic Planning Members Group.

7. East Sussex Strategic Planning Members Group

7.1 With regard to housing provision ESSMPG has agreed to consider the definition of HMAs affecting East Sussex and to establish a protocol for early liaison and consistency on this work, which is expected to draw on the 2011 Census migration patterns. It is recognised that HMAs are likely to extend beyond the county boundary and the protocol should include engagement with adjoining authorities, especially to the north and west (including the CWSGB Strategic Planning Board). The principle of linked assessments of housing and employment needs in future reviews and a ‘robustness review’ of housing market indicators in the existing countywide housing monitoring/reporting framework, in line with the National Planning Practice Guidance, have also been agreed.

7.2 Through the ESSPMG work is actively underway on establishing a common evidence base and planning policy direction for specific topics that require detailed policies and have commonality across East Sussex. The currently identified topic areas are Development in the High Weald AONB; Older Persons Housing; Equestrian Development; Biodiversity and Green Infrastructure; Tourism; Sustainable Transport; Energy Development; and Community Facilities.
7.3 The topic areas are being progressed by working groups comprised of all East Sussex local planning authorities and currently consists of the identification of inconsistencies, gaps or other weaknesses in the evidence base and policy coverage. This will be followed by any necessary additional evidence gathering, identification of common policy elements and ascertaining reasons for any local variations. As the majority of the issues being explored are detailed in nature, this work is of greater relevance to the Development Management policies each planning authority is preparing.

Lewes District Council:

Signed:

Print Name: [Redacted]

Date: 17 October 2014

Wealden District Council:

Signed:

Print Name: [Redacted]

Date: 21 October 2014
WEALDEN DISTRICT COUNCIL

Wealden Local Plan Duty to Co operate

Tuesday 16th June 2015 – 10.00 to 12.00 p.m.

Lewes District Council offices, Lewes

Notes from meeting

Present:

- WDC, LDC

[Redacted]

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.

WDC updated on the Judicial Review hearing that took place last week. The result of the hearing is likely to be known by the end of July. The hearing focused on policy WCS12 of the Core Strategy. The outcomes of the hearing could include quashing the policy or quashing part of the policy which may have implications on the re-examination of the zone of influence and the type of mitigation required. confirmed that WDC would be undertaking another visitors survey as part of the local plan process as the previous one was undertaken in 2007/08 and this review was therefore already likely to happen regardless of the outcome of the JR.

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 cooperate.

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). This includes Lewes District Council, although it is acknowledged that Lewes falls within other housing market areas particularly to the west of East Sussex.

WDC is looking at approx. 735 dwellings per annum with a total of approx. 7600 additional dwellings across the plan period (in addition to the allocations in the Core Strategy). WDC has estimated the total shortfall of the authorities within the HMA (Rother, Hastings, Lewes, Mid Sussex, Tunbridge Wells, 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.

WDC indicated that we were unaware whether the additional growth for Wealden can be accommodated but will look to see if other authority’s shortfall can also be accommodated. The need identified for Wealden is not too far from what we are currently delivering we are looking to see whether we can accommodate the additional growth for Wealden and then we would look to see if any other authority’s shortfall can be accommodated. The need identified for Wealden is not too far from what we have been delivering in the last few years and on this basis it may be difficult to argue lower OAHN in terms of the markets ability to deliver.

Spatial development options

WDC produced a map showing the 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 it is anticipated that 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.

WDC confirmed that they had considered new towns when developing their Core Strategy. He considered that new towns should be looked at on a sub regional basis in the medium to long term to look at the wider impacts of a new settlement on adjoining authorities.

WDC confirmed that it would be possible to have this sign posted in the new local plan and that such an approach should not be precluded. It was proposed to discuss this issue and options for development at the next East Sussex Strategic Planning Members Group.
confirmed that there is a coastal west Sussex and greater Brighton group which is pushing for a higher level strategic plan which looks at longer term housing growth. This could be replicated in East Sussex especially given Wealden are looking at the possibility of large urban extensions and new settlements.

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 therefore we will not know whether there is additional capacity for growth in the north of the district beyond that outlined in the Core Strategy.

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.

indicated that the results of the monitoring on the Forest may lead to the conclusion that Wealden may have no growth. The main current strategy, based on the proposed map, 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 may be available in time for the Issues, Options and Recommendations 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 which will also need to be mitigated.

Non residential development

confirmed that the Wealden District employment land review was out of date and that options are being considered to update this. Work on town centres has started with proposed retail allocations from the Core Strategy in Uckfield and Hailsham however there may be need to allocate more sites in the new local plan.

confirmed that based on the proposed strategy 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 A22/A27 corridor which adds to the pressure for improvements to the A27 and also potential rail links.

confirmed that Lewes did not have any surplus or deficits in employment and retail provision.
Other

WDC confirmed that WDC are working on the SAMMs strategy as a matter of urgency at the moment and this will be sent to authorities in the next couple of weeks.

LDC confirmed that LDC had delegated authority in place so once the strategy is agreed and approved they are ready to implement it. They are being put under pressure due to the Newick site.

LDC asked for an update on the SANGs position in Wealden given the development at Newick.

LDC confirmed that the SANG attached to the site at West Uckfield has limited capacity for the 1000 dwellings (there may be a small amount in addition). 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 on going.

LDC confirmed that the Newick Neighbourhood Plan had been judicially reviewed based on implementation therefore LDC may send WDC a letter to confirm the position with regard to SANGs. The hearing is on 13th/14th July.

LDC confirmed that the development at Newick needs to be delivered by 2033.

WDC explained the reasoning behind the letter that had recently been sent to Lewes and Mid Sussex. confirmed that they had shown their consultants the letter and that they have confirmed that it is not something Lewes should be worried about and they are not sure whether they will respond to it.

LDC confirmed that the consultation on the modifications to the Core Strategy will start at the end of July.

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.
---Original Message---

From: [redacted] LDC
Sent: 18 February 2016 11:22
To: [redacted] WDC
Subject: RE: Steel Cross High Court Judgement

Thanks [redacted], I know that [redacted] is having is having a thorough read of the judgement and may well be in contact with [redacted] to discuss further.

Kind Regards,

[redacted] LDC

---

From: [redacted] WDC
Sent: 17 February 2016 15:58
To: [redacted] LDC
Subject: Steel Cross High Court Judgement

Dear [redacted] LDC

You may remember a while ago 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

[redacted]
Dear [Name],

I was hoping to try and call today, but unfortunately I ran out of time.

I attach a letter from the Council concerning air quality and the Ashdown Forest. I have not sent a letter to the National Park Authority, and I will leave it to you to discuss the matter with the relevant officers at the Authority. We will be meeting them on 30th June, and I am happy to provide more detail if they wish at that meeting. Indeed, I know we are meeting next week and it would be good to discuss the content of the letter at the meeting.

I am at the Court of Appeal tomorrow as we are being challenged regarding the use of the 7km zone in terms of mitigation measures and I will be able to update you next week with any information I may have about that particular challenge. However, in the mean time if you wish to discuss this letter further I am in the office on Friday.

Regards

[Name]  

---

[Logo]  | Environment and Community Services
Wealden District Council | Council Offices | Vicarage Lane | Hailsham | East Sussex | BN27 2AX

LDC21
Lewes District Council

By Email only

Dear [Name] LDC

I am writing further to recent informal discussions regarding the potential impact of the Lewes District and South Downs National Park joint Core Strategy on the delivery of the Wealden District Council Core Strategy in terms of Nitrogen deposition issues. This has now been raised at two planning appeals concerning proposed development within Wealden District. As both these cases have the potential to adversely impact the delivery of the Wealden District Core Strategy, I am compelled to bring to your attention certain matters.

As you are aware the Council, together with the South Downs National Park Authority, adopted the Wealden District Core Strategy in February 2013. The Inspector examining the Core Strategy restricted growth within the north of the District due to the Habitat Regulations Assessment of the Core Strategy. This primarily related to increased Nitrogen deposition resulting from increased traffic movements associated with new development. The assessment was in line with the Design Manual for Roads and Bridges screening criteria, with 950 additional annual average daily traffic movements (AADT) attributed to the A26 from the identified Core Strategy development. It was made clear at the Core Strategy examination that the 950 AADT was likely to be an underestimate as certain other developments were not included in the calculation. The Planning Inspector examining the Core Strategy stated in his final report (dated October 2012)

Based on the DMRB results, one section of the A26 would have an additional AADT of 950, indicating very little headroom for development beyond that proposed without further assessment to determine whether there would be a likely significant effect on the Ashdown Forest SAC. This work has not been done. However, the best available evidence on the existing nitrogen deposition load toward the centre of the SAC is that it significantly exceeds the ability of habitats to withstand deleterious effects. Deposition is likely to be more severe close to road corridors. Furthermore, I am mindful that the traffic modelling does not take account of possible traffic impacts of growth in neighbouring authorities. Although heathland management may have some part to play in mitigating the effects of nitrogen deposition, in the context of these other factors there is sufficient evidence at this point on a precautionary basis to restrict
further development in north Wealden beyond that in the Core Strategy.

At the time of the examination the Council was unable to take into account the in combination effects of development contained within the Plans of other Local Authorities. However, it is clear from the Inspector’s considerations above that it is necessary for modelling to take into account the traffic impacts of growth in neighbouring authorities. This is in line with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 which states that a competent authority, before deciding to authorise a plan or project which is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and is not directly connected with or necessary to the management of that site must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives. In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

At the time of the Core Strategy examination, and to date, the Council has not been able to undertake an appropriate assessment. The reason for this is that there is little understanding of the impact of traffic with regards to Nitrogen deposition on the margins of the roads adjacent to the Ashdown Forest, and there is not a full understanding of the in combination impacts.

In order to carry out an appropriate assessment the Council has invested a significant amount of money in order to monitor the Nitrogen deposition on the Ashdown Forest and associated ecology of the protected area. This data will be combined with results from a traffic model and air quality model to determine the in combination effects of development. Appropriate assessment may still take some time to complete due to the need to monitor impacts on a rolling 3 year basis to obtain relevant data and to ensure certainty of impacts. This work is an important component of the Core Strategy Review which is currently being undertaken by the Council.

It is noted that your plan is further progressed than at the time of the Wealden Core Strategy examination. It has been raised by third parties that neighbouring plans, when considered in combination, should prevent some of the Wealden Core Strategy development from proceeding.

I understand the approach from the air quality specialist at Natural England is that every plan is considered alone and not in combination, and that every development not contained within a plan is considered alone and not in combination with a plan. Whilst Wealden District does not agree with this approach, due to the experience from the Core Strategy examination and the resulting legal challenge, the Council has not sought to impose its views on neighbouring authorities. It is however clear to the Council that plans and projects must be considered in combination in order to meet the terms of the Habitats Regulations. This also is a consistent approach with that being taken for recreational impacts on the Ashdown Forest Special Protection Area (SPA), which is being considered in combination on the advice of Natural England.

Whilst the Council would wish to take the advice from Natural England and only consider its own area when undertaking assessments specified by the Habitat Regulations, the Council is aware of a number of interested parties who may wish to legally challenge the approach. Taking into account our experience and results of the Core Strategy examination, subsequent legal challenge, and the legal and technical advice obtained throughout that process, the Council would not be in a position to defend the Core Strategy Review which did not consider the in combination effects of other Local Plans.
This letter will no doubt potentially impact on the joint Lewes District and South Downs National Park Core Strategy, as I understand it has yet to be adopted. I am fully aware of the implications, and the impact it will have whilst this matter is resolved. I know it will be of little comfort but the work on the Wealden District Core Strategy Review will be looking at strategic mitigation measures and if necessary Imperative Reasons for Overriding Public Interest in order to help facilitate development whilst seeking to protect the designated site. In this respect we will be seeking to work with neighbours in order to resolve this matter. As you will be aware guidance suggests that the Duty to Cooperate is best met through joint studies. If you would like to be involved in the Nitrogen deposition studies currently being undertaken by Wealden, as part of your Local Plan, then I would be happy to discuss this further.

Yours sincerely

[Name]

[Position]

[Address]
By e-mail only

Dear LDC

Re: Proposed Modifications to the submission Joint Core Strategy

I am writing in response to the publication of the Proposed Modifications to the Submission Joint Core Strategy. The following representation relates to the Habitat Regulations Assessments for the Joint Core Strategy, and in particular the absence of an in-combination assessment of the Local Plan with the Wealden District Core Strategy in relation to the Ashdown Forest Special Area of Conservation with regards to Nitrogen deposition.

Background to the Wealden District Core Strategy

Wealden District Council and the South Downs National Park Authority adopted the Wealden District Core Strategy in February 2013. The Habitat Regulations Assessment of the Core Strategy considered the impact of Nitrogen deposition with regards to the amount of housing that could be accommodated within Wealden District.

The Inspector examining the Core Strategy restricted growth within the north of the District due to the Habitat Regulations Assessment of the Core Strategy. This primarily related to increased Nitrogen deposition resulting from increased traffic movements associated with new development. The assessment was in line with the Design Manual for Roads and Bridges screening criteria, with 950 additional annual average daily traffic movements (AADT) attributed to the A26 from the identified Core Strategy development. This 950 AADT took into account development of 1000 dwellings in Uckfield, 300 dwellings in Crowborough and 50 dwellings in the village of Maresfield, as well as other commitments within Uckfield and Crowborough. The assessment, however, did not take into account 80 dwellings that were committed in Maresfield and commitments within the surrounding rural areas. In addition the assessment did not take into account any other strategic development areas identified in the Core Strategy, which were situated beyond 7 kilometres, or any other Local Plans due to stage of preparation of Local Plans.
It was made clear at the Core Strategy examination that the 950 AADT was likely to be an underestimate. The Planning Inspector examining the Core Strategy stated in his final report (dated October 2012).

Based on the DMRB results, one section of the A26 would have an additional AADT of 950, indicating very little headroom for development beyond that proposed without further assessment to determine whether there would be a likely significant effect on the Ashdown Forest SAC. This work has not been done. However, the best available evidence on the existing nitrogen deposition load toward the centre of the SAC is that it significantly exceeds the ability of habitats to withstand deleterious effects. Deposition is likely to be more severe close to road corridors. Furthermore, I am mindful that the traffic modelling does not take account of possible traffic impacts of growth in neighbouring authorities. Although heathland management may have some part to play in mitigating the effects of nitrogen deposition, in the context of these other factors there is sufficient evidence at this point on a precautionary basis to restrict further development in north Wealden beyond that in the Core Strategy.

It is considered that from the Inspector’s report that it is necessary for modelling to take into account the traffic impacts of growth in neighbouring authorities. This is in line with Regulation 61 of the Conservation of Habitats and Species Regulations 2010 as amended which states that a competent authority, before deciding to authorise a plan or project which is likely to have a significant effect on a European site either alone or in combination with other plans or projects, and is not directly connected with or necessary to the management of that site must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives. In the light of the conclusions of the assessment, and subject to regulation 62 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site.

At the time of the Core Strategy examination, and to date, Wealden District Council has not been able to undertake an appropriate assessment. The reason for this is that there is little understanding of the impact of traffic with regards to Nitrogen deposition on the margins of the roads adjacent to the Ashdown Forest, and there is not a full understanding of the in combination impacts.

In order to carry out an appropriate assessment Wealden District Council has invested a significant amount of money in order to monitor the Nitrogen deposition on the Ashdown Forest and associated ecology of the protected area. This data will be combined with results from a traffic model and air quality model to determine the in combination effects of development. Appropriate assessment may still take some time to complete due to the need to monitor impacts on a rolling 3 year basis to obtain relevant data and to ensure certainty of impacts. This work is an important component of the Wealden Local Plan, which is currently being developed by the Council, which will outline the new housing requirements for the District and will impact on the spatial strategy being developed by the Council. Avoidance and mitigation measures are also being considered as part of this work.

Current situation within Wealden District

Wealden District has resolved to permit 1,000 dwellings in Uckfield and 160 dwellings in Crowborough, leaving 190 dwellings to be permitted within the AADT capacity. The Council is aware that work is being progressed to submit applications to deliver the Core Strategy policy requirements. Notwithstanding this
planning consent has now been granted on appeal for 103 dwellings in Crowborough in addition to that of the Core Strategy. The Council considers that, in the absence of information concerning the increase in AADT from wider commitments that, on a precautionary basis, additional development would have a likely significant effect on the A26.

The Habitat Regulations Assessment (HRA) of the Joint Core Strategy

The HRA of the Joint Core Strategy, and in particular in relation to the Proposed Modifications to the submission Joint Core Strategy, does not undertake an assessment of the impact of the Local Plan on the A26 adjacent to the Ashdown Forest SPA. However it is understood that earlier HRA (March 2014) showed that the Joint Core Strategy alone had an AADT of 190. In combination with the Wealden District Core Strategy the AADT will exceed the screening criteria contained within the Design Manual for Roads and Bridges. It is not clear if the additional development within the Joint Core Strategy will exacerbate the original position but either way this may prejudice the Wealden District Core Strategy.

[Redacted]

WDC

[Redacted]
Filed: Claimant
Witness: First
Number: MB1-MB19
Exhibits: 3 August 2016

IN THE HIGH COURT OF JUSTICE
QUEEN’S BENCH DIVISION
ADMINISTRATIVE COURT (PLANNING COURT)
IN THE MATTER OF AN APPLICATION UNDER
SECTION 113 OF THE PLANNING AND COMPULSORY
PURCHASE ACT 2004

BETWEEN:

WEALDEN DISTRICT COUNCIL

Claimant

-and-

1. SECRETARY OF STATE FOR COMMUNITIES AND
LOCAL GOVERNMENT

2. LEWES DISTRICT COUNCIL

3. SOUTH DOWNS NATIONAL PARK AUTHORITY

Defendants

-and-

NATURAL ENGLAND

Interested Party

WITNESS STATEMENT OF

Trowers & Hamlins LLP
3 Bunhill Row
London EC1Y 8YZ

LDC28
I, [redacted], Head of Planning Policy and Economic Development at Wealden District Council, of Council Offices, Vicarage Lane, Hailsham, East Sussex BN27 2AX, WILL SAY AS FOLLOWS:

Introduction

1. I make this witness statement in support of the application by the Claimant Council pursuant to section 113 of the Planning and Compulsory Purchase Act 2004. I have worked for the Council for fourteen years. I was involved in the joint preparation by the Council (and the
Third Defendant) of the Wealden Core Strategy ("the WCS"), which was adopted by the Council on 28 November 2012 and by the Third Defendant on 19 February 2013. I was also involved in the consideration by the Council of the emerging "Lewes District Local Plan Part 1 Joint Core Strategy 2010-2030" ("the Joint Core Strategy"), which was jointly prepared by the Second and Third Defendants and is the subject of these proceedings. I am currently involved in the preparation of the emerging Wealden Local Plan, which will ultimately replace the WCS.

2. The matters stated within this witness statement are within my own knowledge, or else they are matters of information and belief. Where I refer to matters that I believe to be true but which I cannot verify from my own knowledge, I indicate the source of my information.

Exhibits

3. There is now shown to me an indexed bundle of consecutively paginated documents marked ‘Exhibit MB1’ to "Exhibit MB19. This bundle contains documents which are relevant to this application and to which reference is made in the Statement of Facts and Grounds. I will refer in this statement to other documents which are contained in further exhibits and which support or are relevant to the grounds of challenge.

4. The documents contained in Exhibit MB1 are as follows:

   A. Natura 2000, Standard Data Form for Special Areas Of Conservation (SAC);
   B. Map indicating zones of influence around Ashdown Forest;
   C. Extracts from "Wealden District (Incorporating Part of the South Downs National Park) Local Development Framework: Assessment of the Core Strategy under the Habitats Regulations - Submission Stage August 2011";
   D. Extracts from Inspector’s Report on examination of Wealden Core Strategy;
   E. Policy WCS12 (Biodiversity);
   F. General Guidance on the Habitats Regulations and its impact upon development which requires planning permission within and around the Ashdown Forest;
   G. Ashdown Forest SAC, Method for Air Quality Monitoring and Assessment of Nitrogen Deposition, July 2013;
   H. Ashdown Forest SAC Air Quality Interim Report Summary;
   I. Report to Lewes District Council and the South Downs National Park Authority;
J. Extracts from Joint Core Strategy;

K. Extracts from Habitat Regulations Assessment Report (Stages 1 – 3);

L. Extracts from Habitats Regulations Assessment Addendum;

M. Letter from Wealden District Council to Lewes District Council dated 2nd October 2015;

N. Pre-action "warning" letters dated 21st June 2016 sent to the Lewes District Council, the South Downs National Park Authority and Natural England;

O. Letter of response from Sharpe Pritchard LLP on behalf of Lewes District Council, the South Downs National Park Authority dated 6 July 2016;

P. Pre-action letter from Trowers & Hamilns LLP to Sharpe Pritchard LLP dated 22 July 2016;

Q. Letter of response from Sharpe Pritchard LLP on behalf of Lewes District Council, the South Downs National Park Authority dated 29 July 2016;

R. Extracts from Design Manual for Roads and Bridges;

S. Extracts from National Planning Policy Framework.

Preparation of WCS

5. I do not repeat the facts set out in that Statement regarding the preparation of the WCS and its associated Habitats Regulation Assessment ("HRA"), but confirm that they are true.

6. I also refer to the following aspects of that process.

7. On 5th November 2007, I met with [mask] from Natural England to discuss the Council’s approach to its HRA. A letter was subsequently received from [mask] dated NE 19th November 2007 which outlined the 2 specific issues facing the Ashdown Forest SPA/SAC, namely air pollution and increased recreational pressure. [mask] letter is NE marked Exhibit MB2. [mask] advised that “as a guideline Natural England states that roads located over 200m from the area of interest should not pose a significant impact...As regards specific guidance on air pollution, Natural England is currently considering this issues [sic] but unfortunately information will not be available in the near future”. [mask] added that “we discussed the in-combination effect of recreation and air pollution when considered in combination with neighbouring authorities. It will not be the case that whoever completes
their LDF first gains a housing allocation at the expense of their neighbours. The in-
combination consideration includes this...“.

8. Prior to the publication of the HRA in February 2011, on 19th February 2010, a stakeholder
meeting was held regarding the HRA. The meeting was chaired by [mask] of UE
Associates, working on behalf of Wealden District Council. [mask] produced notes
from the meeting, which are shown to me marked Exhibit MB3. The notes show that a
number of issues were raised regarding air pollution (and recreational) effects. It was agreed
that further work was required to establish a basis for analysis of atmospheric pollution.

9. On 8th June 2010 a meeting took place between officers from Natural England, [mask]
and myself to agree air quality issues with regard to Ashdown Forest. I typed a note of the
meeting that was circulated and subsequently amended by Natural England. The ‘tracked
changes’ note is reproduced at Exhibit MB4. I rely upon the note in giving the following
account of the meeting. In this meeting we discussed the guidelines recommended by
Natural England and the note shows that their preference was, at that time, to use guidelines
that I now understand to have been created by the Environment Agency used in approving
permits for point source pollution.

10. On 16th September 2010 a meeting of Wealden District officers, Mid-Sussex District officers,
[mask] and Natural England took place to discuss the Ashdown Forest. Natural
England sent final minutes on 20th September 2010 which are reproduced at Exhibit MB5. I
recall that the use of 1% process contribution was questioned by both [mask] and
myself as it related to point source data as opposed to traffic movements. Taking into
account comments regarding traffic movements and the existence of guidance contained
within the Design Manual for Roads and Bridges (’DMRB’), I recall Natural England stating
that as this guidance is in place we should initially calculate whether the annual average daily
traffic flows (AADT) would be increased by 1,000 cars or more. It was further stated, as I
recall, that for any road where the AADT is not expected to increase by these numbers no
further assessment was required. I also recall as part of the meeting discussing the
requirements of a full assessment (beyond 1,000 AADT) in relation to nitrogen deposition. At
this stage we were made aware from Natural England that a full assessment would require
an ecological assessment of the SAC, air quality monitoring and transport modelling. We
discussed the timescales involved, bearing in mind our Proposed Submission Core Strategy
was about to be published. I recall explaining to Natural England that Wealden did not have a
District wide transport model.

11. As the Statement of Facts and Grounds explains, the HRA was based on the DMRB
methodology; and that by the time the HRA was prepared, the DMRB methodology was
regarded as acceptable by Natural England at this meeting.
12. Natural England responded to the Proposed Submission version of the WCS by letter, which is reproduced at Exhibit MB6, stating that it agreed with the approach taken by the Council in the assessment under the Habitats Regulations.

13. Hearing sessions, as part of the examination of the WCS, commenced on 17th January 2012. At the hearing on 19th January 2012 regarding ‘Matter 14’ representatives from Natural England were part of the hearing. The Council took notes for the Planning Inspector. On the 19th January notes were taken by [REDACTED] who I believe hand wrote the notes and typed them after the session. The hearing notes from this session which include discussions on nitrogen deposition are included at Exhibit MB7. In relation to nitrogen deposition, the methodology used was discussed at length. I recall commenting that other in-combination factors such as Mid-Sussex growth and Tunbridge Wells growth, and other commitments, could not, and would not have been, taken into consideration. In addition to this the notes show, and I recall explaining that the effect of other Districts, which may have an impact on the roads crossing the Ashdown Forest, was not currently known.

14. In so far as it may be suggested that the approach taken by the Council in its HRA was the same taken by the Second and Third Defendants, it is important to understand that, as the examining Inspector to the WCS acknowledged, the figures adopted for the purposes of the Wealden HRA did not take into account any traffic which was attributable to growth from development in neighbouring authorities. The information available at the time did not allow for any such traffic growth to be taken into account as part of the HRA. There was no suggestion at the time that such calculated traffic growth would have been irrelevant to HRA.

**Liaison with Second/Third Defendants**

15. The Statement of Facts and Grounds records the representations dated 2nd October 2015 submitted by the Council in response to the Proposed Modifications to the Submission Joint Core Strategy. I was the author of those representations, which raised the issue of in-combination effects on the SAC having regard to the WCS.

16. I emphasise that the Second/Third Defendants were, or ought to have been aware, of the concerns held by the Council regarding the potential for in-combination effects arising from further development in Lewes district, beyond that anticipated by the WCS. In particular, the examination of the WCS had led to an Inspector’s report which explicitly identified how the limited “headroom” created by the 950 AADT figure relevant to the WCS did not take into account traffic growth from neighbouring authorities. The report made it clear that development which would involve a breach of the 1000 AADT would require further work to be carried out before such development could be allowed. The relevance to the emerging Joint Core Strategy was plain.
17. The following contact between the Council and the Second Defendant in particular is also relevant.

18. On 11th November 2010 I received an email from [redacted] Planning Policy Officer from Lewes District Council, stating that Lewes District Council had begun work on its own HRA and referring to work by the Council which had preceded its HRA. An earlier document prepared by the Council in July 2009, entitled “Screening of the Core Strategy under the Provisions of the Conservation (Natural Habitats etc) Regulations 1994, as amended,” had referred to the potential for new development in the north of the district increasing traffic on the A22, adjacent to Ashdown Forest, and the potential for a general increase in nitrogen deposition which may adversely affect the vegetation community. The email is exhibited at MB8.

19. I responded to the email on 19th November 2010 explaining the focus upon Ashdown Forest and that a subsequent meeting would take place between West Sussex County Council and East Sussex County Council ("ESCC") regarding modelling. Following that meeting ESCC undertook an assessment of the Draft Proposed Submission WCS housing numbers in December 2010 and January 2011, so as to assess changes in AADT which might occur due to the implementation of the Core Strategy. These results were incorporated into the HRA of the WCS. It must therefore have been clear to the Second Defendant that the work being carried out, even at that stage, by the Council was of potential relevance to the later preparation of the HRA relating to the Joint Core Strategy.

20. On 23rd February 2011 [redacted] requested a meeting regarding the Council’s HRA and its implications for the emerging Joint Core Strategy, with particular reference to traffic levels and Ashdown Forest SAC. I subsequently attended a meeting with representatives from Natural England and the Second Defendant on 9th March 2011. This meeting referred to the findings of the HRA of the WCS. I believe that notes of the meeting were made by [redacted] and I amended those notes and sent back the notes to [redacted] on 10th March 2011. These are exhibited as MB9. I rely upon the notes as amended to provide an account of the meeting. At the meeting it was emphasised the need to comply with the Habitats Regulations. The notes were copied to [redacted] from Natural England. On 10th March 2011 [redacted] replied stating that she had no changes to make. Again, I concluded from the request for the meeting that the figures in the HRA of the WCS were regarded as relevant to the preparation of the Joint Core Strategy.

21. I subsequently continued working on the emerging WCS. On 6th June 2012 I received an email from [redacted] which provided an update from the Second Defendant in relation to Ashdown Forest SAC and the emerging Joint Core Strategy. It stated that “with regards to traffic impact on the Ashdown Forest, we can show that our impact is not significant and
thus, have no concerns" (Exhibit MB10). My response at this stage focussed on SPA mitigation (Exhibit MB11).

22. On 8th June 2012 I received a copy of an email from\[redacted\] to \[redacted\] then the Planning Policy and Economic Development (Exhibit MB12). Attached to this email was a meeting note from a meeting between Natural England and the Second Defendant on 30th May 2012. Issues regarding nitrogen dioxide emissions were included in the note. It was stated that East Sussex County Council had confirmed that the levels of traffic relevant to Ashdown Forest were not significant. I did not consider that the calculations which applied to the A26 within Wealden (i.e. the section which had been the subject of the 950 AADT calculation in the HRA of the WCS), were definitive.

23. On 2nd November 2012 and 7th November 2012 \[redacted\] then an officer in the planning policy team at the Council, exchanged email correspondence with \[redacted\] an officer of the Second Defendant, regarding the procurement of consultants to undertake a methodology for monitoring nitrogen deposition on the Ashdown Forest SAC. \[redacted\] ESCC confirmed that the Second Defendant would pay 5% of costs (Exhibit MB13). I took this as recognition of the need for collaborative work to determine potential impacts on the SAC that had been identified by the Inspector to the WCS examination.

24. On 10th March 2014 \[redacted\] of the Council sent \[redacted\] of the Second Defendant a copy of the judgment in Ashdown Forest Economic Development LLP v. SSCLG, as referred to in the Statement of Facts and Grounds. The covering email invited a reading of the judgment especially in terms of "in combination effect and Habitats Regs" (Exhibit MB14).

25. On 13th October 2014 my letter of response to the Newick Neighbourhood Development Plan Consultation was sent to the Second Defendant (Exhibit MB15). The neighbourhood area is the entire parish of Newick, within Lewes district. In my letter concern is raised regarding the Habitats Regulation Assessment and the need for in combination assessment with regards to nitrogen deposition. I subsequently spoke to \[redacted\] of the Second Defendant regarding this letter, to emphasise the concerns of the Council.

26. On 10th June 2015 I sent a letter to \[redacted\] dated 10 June 2015 (Exhibit MB16) which set out in detail the concerns with in combination effects of the respective Local Plans pursuant to the Habitats Regulations.

27. I wrote the letter dated 2nd October 2015, as referred to above and in the Statement of Facts and Grounds, in response to the Proposed Modifications to the submission Joint Core Strategy. This letter set out the concerns of the Council regarding the absence of an in-
combination assessment relating to the effects of the WCS and the Joint Core Strategy on the SAC.

28. Council officers did not attend hearings of the examination into the Joint Core Strategy in December 2015. It was assumed that the representations submitted a short time previously would be properly take into account, as required.

29. In summary, it is clear that the Defendants ought to have been aware, prior to the closure of the examination and the preparation of the Inspector’s report, that the Council had raised concerns relating to the HRA associated with the draft policies in the Joint Core Strategy. Even before the submission of the representations in October 2015, similar concerns had been expressed, albeit in relation to an emerging neighbourhood plan within Lewes district, a year before. Previous contact with the Council suggested that it was aware of the relevance of the work which underpinned the WCS to the preparation of the Joint Core Strategy. In any event, before the later hearings into the examination, it was clear that the Council had expressed concerns with the approach taken in respect of the SAC and these ought to have been taken into account.

**Air quality work pursuant to the WCS**

30. The Council has sought to progress the further work anticipated by the WCS following the recommendations of the Inspector. This has included the production of three reports including Ashdown Forest Interim Report Year 1 – Vegetation Survey (December 2015), Ashdown Forest Interim Report Year 2 – Vegetation Survey (May 2016) and Interim Report Year 1: Ashdown Forest Air Quality Monitoring and Modelling (February 2016). The interim air quality report by Air Quality Consultants has identified (paragraph 5.1) that the average deposition to heathland habitats is 14.0 kgN/ha/yr to 14.3 kgN/ha/yr and over the entire SAC average deposition is 21 kgN/ha/yr. The work has also identified that in certain locations deposition is both lower and higher ranging from 8.6 – 55.7 kgN/ha/yr. This information confirms the position established during the preparation of the WCS that certain areas of the SAC, including heathland habitats, are susceptible to nitrogen deposition levels above the established critical load of 10 kgN/ha/yr. A note prepared by the Council which summarises the interim air quality report is at Exhibit MB1(H). Exhibits MB17 and MB18 include extracts from the more recent of reports to illustrate the nature of the work that is being undertaken by the Council.

31. The Council will continue to progress with this work and combine the results from further air quality monitoring and modelling and ecological monitoring. This will be encompassed in a report which is anticipated to be published at the end of this year to coincide with the publication of the Proposed Submission Wealden Local Plan.
32. The Second and Third Defendants are aware that this work is ongoing in order to assess the implications of further development on Ashdown SAC. The concern of the Council is that the approach taken to the SAC as part of the Joint Core Strategy process risks undermining the basis upon which the work was progressed. The WCS and the report of its examining Inspector anticipate that this work will be carried out before further strategic development which affecting the relevant section of the A26, beyond the 1000 AADT threshold in the DMRB, is approved. The Joint Core Strategy effectively bypasses that process and fails to take into account the collaborative approach which the WCS Inspector regarded as necessary before further development could be allowed.

Emerging Wealden Local Plan

33. As part of the Habitat Regulations Assessment of the emerging Wealden Local Plan the Council has commissioned a transport model to identify the AADT arising from all developments within the Plan in combination with the planned developments of the wider area. This model is not yet complete but will identify the impacts from Lewes District and the wider area. As part of the emerging Plan the Council is considering mitigation measures to avoid a likely significant effect on Ashdown Forest including significant infrastructure to reduce the baseline traffic using the A26 and A22. In ignoring in combination effects the Joint Core Strategy does not investigate potential measures on a local and strategic level to avoid and mitigate development if possible. The result is the emerging Wealden Local Plan will have to seek to manage a strategic issue without the necessary ability to coordinate a strategic approach, despite the potential risk to the SAC.

Neighbouring Authorities

34. This concern is heightened due to the emergence of other draft Local Plans which could provide for development which, in combination with the strategic development anticipated by the WCS, cause the AADT figure on the A26 to exceed 1000 AADT to an even greater extent. Mid Sussex District Council have consulted upon a number of iterations of a draft Plan under Regulation 19 of Town and Country Planning (Local Planning) (England) Regulations 2012 but not yet submitted their most recent draft plan (consultation on Focused Amendments to the Pre-Submission Draft District Plan (November 2015) for examination. However, on 24th July 2015 I sent representations to that authority on similar terms to those contained in my letter of 2nd October to the Second Defendant (Exhibit MB19).

35. I am also aware that Tunbridge Wells Borough Council is reviewing its Local Plan and in the early stages of evidence gathering prior to consultation pursuant to Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Traffic from growth
in its area may add further to flows along the relevant section of the A26. It is aware of the
air quality monitoring work that is being undertaken and I will shortly be progressing
discussions in relation to its emerging plan.

36. I do not know whether these authorities will ultimately follow the same approach as the
Second and Third Defendants in this case. I mention these plans, however, because they
illustrate the potential for this approach to increase traffic beyond the level at which (a) the
DMRB considered traffic increases could not be “scoped out” of an air quality assessment;
and (b) the WCS Inspector considered development should be restricted, at least before the
outcome of work to better assess impacts to the SAC had been carried out.

37. The concern of the Council is that the discrete preparation of development plan documents
such as the Joint Core Strategy, and possibly others, will cumulatively risk harm to the SAC
without the fuller assessment that was recognised as necessary through the WCS process.
The approach adopted would effectively allow individual plans or projects to cause increases
in traffic flows on the A26 with little or no control by way of an in-combination assessment
pursuant to the Habitats Regulations.

Statement of Truth

I believe that the facts stated in this witness statement are true.

Signed: [Redacted]

Name: [Redacted]

Position: [Redacted]

Dated: 2nd August 2016
RE: Baseline data request

Sent: 31 May 2017 12:26

From: [Redacted] LDC

To: [Redacted] WDC

Thank you [Redacted], WDC

Yes I would like to, can you make next week sometime? I only have appointments Monday, otherwise flexible to meet here or Hailsham.

Hi [Redacted], LDC

I am just looking into this as it is information that TWBC has requested so hopefully I can get back to you shortly. Would you like to meet sometime soon?

Kind regards

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

From: [Redacted] LDC
Sent: 31 May 2017 12:16
To: [Redacted] WDC
Subject: Baseline data request

Hi [Redacted] WDC
The SDNPA together with LDC are in the process of commissioning transport modelling and air quality assessment for the Ashdown Forest. As you will be aware from the DtC meeting at the Park the other week both authorities will be consulting on pre-submission plans in the autumn and need to meet committee cycles beginning this summer.

We are building a transport model rather than rely on the AADT figures to ensure we have as robust and accurate an approach as possible. To that end can I please request that you provide the following information to us as soon as possible? :-

- Base flows on the roads through the SAC/SPA
- Average vehicle speeds on these roads
- Percentage heavy goods vehicles on these roads

I believe this information should not be sensitive or restricted and I would hope is readily available to pass to us. As you will be aware this information is needed in order for us to undertake the air quality calculations in line with the DMRB methodology. It would be expedient to use the same baseline data you have, both for consistency and the significant time-saving to us in not initiating fresh traffic counts to establish the base flows, which are already known.

I trust this is something you are able to share forthwith in the interests of collaborative working.

Kind Regards,

[Signature]

Lewes District & Eastbourne Borough Councils
By Email Only

Dear Head of Planning,

This letter represents a Duty to Cooperate request to assess the extent to which the unmet Gypsy and Traveller need for permanent pitches within Lewes District, as a whole, may be accommodated within neighbouring authorities’ administrative areas. Lewes District Council has recently published the Local Plan Part 2 (LPP2), which applies to the area of the district that lies outside the South Downs National Park (SDNP). The recently adopted Local Plan Part 1, (adopted in May 2016) sets the requirement for 13 net additional permanent pitches to serve Lewes District, 8 to serve the needs arising within the SDNP and 5 to serve the needs arising within Lewes district outside the SDNP. This requirement is identified in Core Policy 3 (Gypsy and Traveller Accommodation), which states that provision will be made within LPP2, the SDNP Local Plan or neighbourhood plans.

Lewes District Council undertook a ‘call for sites’ for Gypsy and Traveller provision as part of the Regulation 18 consultation on the Draft LPP2 between November 2017 and January 2018, however no sites were submitted to the Council. The Council reviewed filtered SHELAA sites and its own land holdings to assess opportunity to meet the requirement.

As a result of this further work the LPP2 Pre-Submission and Submission Plan is allocating a site for the provision of 5 permanent pitches. The SDNP Local Plan has identified 5 permanent pitches towards their requirement of 8. There remains, therefore, an unmet need of 3 pitches required to serve the needs of Lewes District as a whole. Both authorities consider that Lewes JCS Core Policy 3 and South Downs Local Plan Strategic Policy SD33 respectively set positive frameworks for bringing as-yet unidentified sites forward through the development management process.

As Gypsy and Traveller pitches represents a strategic unmet need, which Lewes District Council is unable to accommodate within its own planning administrative boundary (the area of Lewes District outside the SDNP), this letter represents a Duty to Cooperate request to assess the extent to which the unmet need may be accommodated within neighbouring authority administrative areas.
May I please have a response from your authority by Tuesday 18th December setting out whether you may be able to assist?

Yours Sincerely,

[Name]
Dear [Name],

Please find attached a letter concerning the duty to cooperate request from Lewes District Council.

Please feel free to contact me to progress this matter further.

Kind regards

[Signature]

Wealden District Council | Council Offices | Vicarage Lane | Hailsham | East Sussex | BN27 2AX

Web. www.wealden.gov.uk
Dear [Name],

Re: Gypsy and Traveller Pitch Provision in Lewes District

I am writing further to your letter dated 7th December 2018 concerning a Duty to Cooperate request to determine whether neighbouring LPAs can address unmet needs arising within Lewes District. I understand from your letter that there is an outstanding need from 2016 to 2030 arising from Local Plan Part 1 (adopted in May 2016). Wealden District Council has not had an opportunity to consider your evidence base in this regard.

As you are aware Wealden District Council are preparing to submit its Wealden Local Plan to the Secretary of State for examination on January 2019. The Wealden Local Plan is a comprehensive plan and therefore the provision for Gypsies and Travellers has been addressed as part of this Plan.

You may be aware that Wealden District Council was involved in the Gypsy and Traveller Accommodation Needs Assessment involving Brighton and Hove City Council and East Sussex Council’s (Eastbourne, Hastings, Lewes, Rother and Wealden). The assessment analysed the need as at February 2014 and was published in January 2015. Subsequently the change in definition in relation to which individuals and families should be categorised as being Gypsy and Travellers was published. Wealden District Council undertook a further study to recognise this change in definition, which was published in November 2016. This resulted in the need for pitches within Wealden District to reduce.

The Wealden Local Plan identifies that there is a need of 21 permanent pitches between 2016 and 2038, and that within the Plan period there is a need for some 18 pitches. The Council has allocated 21 pitches on two sites one site for 18 pitches in Hailsham and one site for 3 pitches in Polegate. Both sites are owned by Wealden District Council. There are outstanding legal issues in relation to the site at Polegate, and although it is considered to be deliverable it is acknowledged that Wealden District has some flexibility owing to the fact it is exceeding its need.
The Council is therefore able to consider meeting the unmet need within Lewes District in relation to permanent Gypsy and Traveller pitch provision. However, this is subject to an assumption that the unmet need is 3 pitches and that the examination of the Wealden Local Plan does not result in additional need than that stated.

In terms of the delivery of the pitches, this would need to involve a discussion between Lewes District Council and Wealden District Council as landowner. I have copied in relevant parties at Wealden District Council so that they are aware.

If through the local plan process you are seeking to use Wealden District’s over-supply to meet unmet need, please could you inform me so that I may update the situation with regards to the Wealden Local Plan examination. I would suggest that a Memorandum of Understanding would be a helpful tool to agree the position.

Yours sincerely
Lewes DC & Eastbourne BC  
Southover House  
Southover Road  
Lewes, BN1 1AB

Director & Deputy Chief Executive Planning,  
Policy & Environmental Services

Dear [Name],

**Update on Wealden’s Duty to Co-operate**

Further to your representations on the Proposed Submission Wealden Local Plan, received in October, I am writing to request that you write an update letter which I can pass on to the Inspector at the time of submission which will be on 11 January 2019.

Your representations said that Wealden District Council had failed on the Duty to Co-operate which is required by the NPPF in its preparation of the Local Plan. The Council intends to defend its’ position on this at Examination and is currently compiling the evidence of communication between local authorities in this regard. Notwithstanding this, we take the relationships between local authorities very seriously and have taken several actions to prove our on-going co-operation in recent weeks as follows:

1. Withdrawal of objection to the South Downs National Park Local Plan on 29th October 2018 before the hearing sessions in November.

2. Draft Memorandum of Understanding with Eastbourne Borough Council is being discussed in December 2018.

3. Consideration and draft agreement to accept undersupply of Gypsy and Travellers sites from Lewes District Council in December 2018.

4. Reply to Tunbridge Wells Borough Council’s consultants queries in December 2018.

5. Meeting with Rother District Council to further consider air quality and hydrology on the Pevensey Levels.

7. Meeting of Strategic Planning Group took place on 2nd November involving officers and elected members from East Sussex District and Boroughs, Mid Sussex District Council and Tunbridge Wells Borough Council and East Sussex County Council.

As you will be aware Duty to Cooperate is about engagement and not necessarily a duty to agree. In view of all the above activity and other numerous informal conversations between officers and members over the past few months it would be appreciated if you would inform the Inspector that you are withdrawing your comments and confirm that Wealden District Council is meeting the Duty to Co-operate.

Regards

Yours sincerely

[Redacted]

Planning, Policy & Environmental Services

cc: [Redacted]
Dear [Name],

Duty to Cooperate

Thank you for your letter dated 20 December 2018 about the Duty to Cooperate and Lewes District Council’s response to the Pre-Submission Wealden Local Plan. It is good to see your recent actions in the spirit of cooperation, however we cannot agree to your request for us to withdraw our comments regarding Wealden District Council failing the Duty to Cooperate.

We acknowledge that your recent actions show progress in respect of cooperative working, however it is not clear how these recent actions relate to the Wealden Local Plan production and the Duty to Cooperate and the specific issues we raised concerning this within our joint representation with Tunbridge Wells Borough Council and the South Downs National Park Authority. Our representation stands that Wealden District Council has not engaged productively and on an ongoing basis in developing the strategic policies of the Pre-Submission Wealden Local Plan.

We remain committed and look forward to working with you on air quality issues relating to the Ashdown Forest through the Working Group.

Yours Sincerely,

[Name]