Wealden Local Plan Examination

MATTER 1

LEGAL COMPLIANCE AND THE DUTY TO COOPERATE

Hearing Sessions:
Days 1, 2 and 3
(Tues 21, Wed 22, Thurs 23 May 2019)

HEARING STATEMENT

Prepared by:
Woolf Bond Planning LLP
On behalf of:
Croudace Homes Ltd

Representor ID No: 968148

May 2019

WBP Ref: 7336
Executive Summary

Croudace Homes Ltd maintain their objections to the soundness of the Submitted Local Plan for the following reasons:

- **The Plan is not positively prepared** having regard to the derivation of the OAN, the approach to housing needs and housing delivery generally, including having regard to the stepped trajectory.

- **The Plan is not justified** having regard to the spatial strategy and housing allocations, such that it cannot be said to be said to provide the most appropriate strategy when considered against the reasonable alternatives.

- **The Plan is not effective** and will fail to provide a five year supply of deliverable housing land and/or deliver the requisite amount of housing during the plan period.

- **The Plan is not consistent with national policy** having regard to the allocation and delivery assumptions relating to certain of the allocated sites, alongside the curtailed plan period.

In order for the Local Plan to provide an appropriate basis for the planning of the District to 2035 rather than 2028 as currently envisaged (thus covering a 15 year period from adoption), Croudace Homes Ltd identify a need to prepare and consult upon necessary modifications to the Local Plan in the form of amended policy wording that would, inter alia:

(i) Increase the OAN from 950dpa to at least 1,044dpa (plus unmet need from Eastbourne BC). This equates to a requirement for at least 22,968 dwellings during the period 2013 to 2035. The requirement should be applied as an annual target across the plan period to respond to longstanding unmet needs.

(ii) Additional sites should be allocated in order to meet the increased housing requirement; and to ensure sufficient housing delivery in the early part of the plan period.

(iii) As a function of (ii) above, allocate land south of Bird in Eye, Uckfield for approximately 175 dwellings and associated open space (including a SANG if required) ¹

The above changes are necessary in order to ensure a sound Plan.

¹ We acknowledge the Inspector’s Guidance Note for the Stage 1 Hearings does not indicate when omission sites may be considered at the Examination. However, whether the Plan has assessed the reasonable alternatives is a matter of soundness, as is testing whether the spatial strategy (and hence site selection) is justified. In the event the Inspector identifies a need to increase the housing requirement and/or extends the plan period and/or identifies the need for additional housing allocations, the land south of Bird in Eye, Uckfield (Site Ref: 002A/1410) is one such location that must be considered by the Council. In this regard, we remain of the view that it represents an appropriate location for development having regard to the lack of technical constraints preventing its delivery.
Issue 1: Whether the plan has been prepared in line with the relevant legal requirements and procedural matters?

1. Has the Plan been prepared in accordance with the relevant Act and regulations?

1.1. In responding to questions relating to legal compliance, Croudace Homes Ltd rely upon the Statement prepared by and the subsequent oral representations of the Ashdown Forest Stakeholder Forum (“AFSF”).

1.2. For the reasons articulated by the AFSF, the HRA is considered to be deficient and has resulted in an unsound plan having regard to the approach set out in policies AF1 and AF2.

1.3. It is submitted that the HRA, in concluding that mitigation is required in relation to the Ashdown Forest having regard to the effect of nitrogen deposition, adopts an approach that takes matters beyond the precautionary principles. This is a view that we understand is retained by Natural England.

1.4. In this regard, we defer to the AFSF as they are making the case against the onerous approach adopted by the Council through the HRA process. Importantly, we do not consider that development at locations such as Uckfield would have a significant effect upon the habitat of the Ashdown Forest. As such, we do not consider the mitigation measures advocated by the Council are necessary.

1.5. The Council's approach to the Ashdown Forest has informed the spatial strategy for the distribution of housing growth during the plan period; and results in very limited growth beyond the strategic scale growth planned in the south of the District.

1.6. On the basis of the foregoing, and as concluded in the statement prepared by the AFSF, the HRA underpinning the Local Plan cannot be said to be justified.
1.7. As such, it follows that in our opinion, the spatial strategy set out in the local Plan cannot be said to be sound. It is simply not justified.

1.8. Constraining growth to a limited part of the District (south Wealden) on the basis of the approach adopted to preparation of the HRA is unsound. It fails to respond to and address the need for housing across the District and fails to take account of the sustainability merits of providing for growth at locations such as Uckfield.

### Sustainability Appraisal

5. Has the plan been subject to Sustainability Appraisal (SA), including a report on the published plan, which demonstrates, in a transparent manner, how the SA has influenced the evolution of the plan making process and have the requirements for Strategic Environmental Assessment been met?

5.1. Our representations upon the Regulation 19 consultation referenced the suitability of land to south of Bird in Eye at Uckfield as a housing allocation for approximately 175 dwellings. The SHELAA (document A.29 (page 353)) and Sustainability Appraisal (document A4 (page 1,475) acknowledge that the site is suitable and developable within the plan period.

5.2. The Sustainability Appraisal (document A4) (Chapter 5) details a range of Housing Growth Scenarios (A-G (page 99)) which were appraised. However, there is no clear explanation of how these scenarios were derived and especially why the construction of 11,456 dwellings over the period 2013-37 (Scenario E) was unacceptable with respect to environmental impacts whereas it was appropriate for the period 2013-28 (Scenario H). It is noted that none of the scenarios appraised in this Sustainability Appraisal reflect the outputs of the SHMA or other objective assessments of housing need. Consequently, as the achievement of the outputs of the assessments of housing need is a clear obligation on the Authority (pursuant to paragraph 49 of the NPPF (2012), it should have been assessed as one option.
5.3. The failure to assess this output specifically indicates that the SA has not met the requirements for appraising this as a “reasonable alternative”.

5.4. The SA needs to be revised in order to assess a greater housing requirement underpinned by a robust assessment of objective housing needs.

6. Is the non-technical summary suitably concise? Has the SA followed the correct processes in terms of content and consultation? In particular, is the scoring methodology within the SA consistent, coherent and accurate?

6.1. It is not considered that a document of nearly 400 pages can be regarded as a suitably concise non-technical summary. Notwithstanding criticism of this length, it is not considered that it adequately explains the reasons how and why the reasonable alternatives were appraised and subsequently discounted, especially with respect of housing requirements and the spatial strategy as outlined in the responses to questions 6 and 8.

6.2. We set out our soundness concerns in relation to the omission of growth at Uckfield in our responses to questions 1 and 8. We simply add here, in relation to the scoring matrix contained within the SA, Uckfield is within the Eastbourne Travel to Work Area (TTWA) (Fig. 7 of the SHMA refers); which TTWA extends from Eastbourne to cover much of Wealden District. This functional relationship supports our position that development at Uckfield can meet wider district needs associated with the HMA (including with respect of Eastbourne).

8. Have all reasonable alternatives been considered in terms of strategy, policies and sites? Have these reasonable alternatives, including those set out within the Sustainability Appraisal Addendum 2019, been considered on a like for like basis? Is the evidence on which the scenarios are predicated consistent? Are there any policies, or strategies, where there were no reasonable alternative options to consider? If so, what is the justification?

8.1. The Sustainability Appraisal indicates that consideration of the quantum of growth and spatial strategy occurred at the Initial Options stage.
8.2. The assessment undertaken at the initial issues and options stage (Oct 2015) considered a range of growth and distribution scenarios (1 to 6).

8.3. All 6 scenarios provided for some level of growth at Uckfield. However, providing for growth at Uckfield was discounted on account of the Council’s approach to limiting growth within the zone of influence of the Ashdown Forest where, pursuant to their assessment (including the HRA assessment) they advanced a strategy of providing for growth in the southern part of the District (where they considered traffic movements to have less of an impact on the Forest having regard to levels of nitrogen deposition).

8.4. Beyond the Council’s approach to the HRA, there is no other basis for discounting the merits of providing for growth at Uckfield as part of the spatial strategy. Indeed, Uckfield is one of only five main settlements within the District.

8.5. The Council’s approach to restricting growth at Uckfield is not justified having regard to the reasonable alternatives.

8.6. On the basis of the foregoing, and as explained in our Regulation 19 representations, there are no technical reasons why further growth at Uckfield (especially on land south of Bird in Eye) could not occur.

8.7. Consequently, the Submitted Plan has therefore unreasonably rejected further growth at Uckfield, to provide a more even spread of development across the District, thereby providing greater resilience for delivery, as envisaged in the NPPF.

---

2 The level of growth for the various scenarios ranged from 375 dwellings to 1,415 dwellings (Appendices F and G refer).
8.8. Additionally, and as acknowledged in the Housing Topic Paper, the Council was aware of the expectations of the Government to boost housing delivery through the use of the Standard Method associated with the NPPF (2018 & 2019).

8.9. We are concerned that the market signals adjustment applied in the SHMA is insufficient to accord with the PPG (see our Matter 3 Statement). The PPG provides further support for the authority to reconsider the quantum of housing growth envisaged to a level around that appraised under Scenario C (which equates to around 972 dwellings annually).

8.10. The failure to re-consider the scope for additional housing across the District (reflecting both the use of the 2012 NPPF guidance alongside that associated with the 2018/2019 versions together with the recognised potential for additional growth at Uckfield) means that the Sustainability Appraisal has unjustly rejected a reasonable alternative.

8.11. Paragraph 4.2.155 of the Oct 2015 SA states that higher level growth figures based on the duty to cooperate (and Gatwick related growth) of 1,573, 1,660 and 1,833dpa were considered. However, the SA states that the figures were not taken forward as the Council did not consider them to represent reasonable alternatives in terms of sustainability and that the numbers were not considered deliverable within the plan period. The SA does confirm that these higher levels of growth have not been assessed against the SA objectives. This seems perverse given the 1,573dpa figure is not much higher than the 1,435 and 1,425 completions the LPA anticipated being achieved in 2021/22 and 2025/26 (Policy WLP12 refers).

8.12. Pursuant to the above, we are of the view that our concerns should be addressed through increasing the housing requirement alongside additional allocations at Uckfield, thereby providing a more even distribution of development across the district.
Duty to Co-operate

9. Has the Council co-operated with the relevant local planning authorities, County Councils and appropriate prescribed bodies, in the planning of sustainable development relevant to cross boundary strategic matters? If so, who has the Council engaged with, and why?

9.1. Whilst this is a matter for the Council to justify, from our reading of the responses to the submitted Local Plan, it is clear that several neighbouring planning authorities are not satisfied that the Authority has appropriately engaged.

10. Specifically, in relation to Wealden, what are the matters of cross boundary strategic significance which require co-operation, and how have these matters been identified?

10.1. From the responses of the duty to co-operate bodies to the consultation on the draft Submission Plan, it is clear that there are significant cross boundary issues including the consideration of amelioration of impacts upon the designation European sites (SPA/SAC) within and adjoining the authority alongside assessing housing needs. This includes providing for unmet needs of neighbours, particularly Eastbourne. Any unmet need from neighbouring authorities will need to be added to the housing requirement to be met in Wealden District.

10.2. For the avoidance of doubt, we express the housing requirement to be met in Wealden as an 'at least' figure of 1,044dpa. Any unmet need would be in addition (and hence added to) that figure.

11. In considering such matters, has the Council co-operated with those identified above, constructively, actively, and on an on-going collaborative basis throughout the preparation of the plan?

11.1. No, as demonstrated by the criticism outlined by the neighbouring authorities of the Council's approach.
12. In considering its responsibilities under the duty to co-operate has the Council explored the production of joint research and evidence gathering to support policy choices, and producing relevant joint polices or informal strategies? If so, how, and what has been the result?

12.1. This is a matter for the Council to justify.

13. As a consequence, of the Council’s legal duty to co-operate, how has the effectiveness of plan-making activities been maximised to enable deliverable, effective policies? In doing so, has joint working on areas of common interest been undertaken for the mutual benefit of Wealden and its neighbouring authorities, and if so, what has been the outcome?

13.1. No. As demonstrated by the significant criticism of Wealden by neighbouring planning authorities, especially with respect of its significantly different approach to the SPA/SAC, it is clear that there appears to be no consensus between the relevant authorities, which matter(s) is to be explored as part of the examination process.

14. What is the significance, if any of Wealden District Council’s withdrawal of its objection to South Down’s National Park’s Local Plan?

14.1. This is a matter for the Council to explain.

15. Are there strategic matters which have not been adequately considered on a cross boundary basis? If so, why?

15.1. The criticisms of neighbouring authorities regarding the approach of Wealden highlight extensive matters which have not been adequately considered on a cross-boundary basis.

16. Specifically, has the Duty to Co-operate been discharged in a manner consistent with Paragraphs 178-181 of the Framework?

16.1. No. Given the extensive criticism of the Council’s position by several neighbouring planning authorities with respect of how the authority has engaged on protection of the SPA/SAC together with un-met housing needs, it is not considered that the duty to co-operate has been effectively and appropriately discharged.
17. Has Wealden been diligent in making every effort to meet cross boundary strategic priorities, including addressing potential unmet development needs arising from neighbouring authorities?

17.1. No, as demonstrated by the criticisms of neighbouring authorities to the approach of the Council.

Habitat Regulations Assessment (HRA)

Please reference the relevant European site when answering the following questions. To avoid repetition, any reference to the Plan should be read as either alone, or in combination, with other plans or projects.

Qs 18 to 31.

18.1. In responding to and addressing the points set out in Questions 18 to 31, Croudace Homes Ltd rely upon the on the submissions contained in the Statement prepared by the AFSF

18.2. We have summarised certain of their points in response to Q1 above.

18.3. Croudace Homes Ltd adopts the Forum’s stance in responding to Q3 18 to 31 and considers the HRA to have taken forward an unrealistic emission scenario in relation to nitrogen deposition, which is not justified by the evidence.

18.4. On the basis of the foregoing, there is no impediment and hence no sound basis for failing to provide for a material amount of housing growth at Uckfield (one of 5 main settlements in the District) in helping to meet identified housing needs.

*********