Matter 2: Vision and Objectives and Local Plan Growth

**Issue 1: Whether the Spatial Vision for Wealden is justified, effective, consistent with national policy and positively prepared?**

**Question 33. Is the Plan period effective, justified and consistent with national policy?**

The NPPF (2012) para 157 requires that Local Plans are ‘drawn up over an appropriate time scale, preferably a 15-year time horizon’ therefore the submitted plan complies with this requirement. The 2018 NPPF (para 33) requires that plan policies should be reviewed at least every five years, therefore we would suggest that any extension can be made as part of this review.

**Issue 2: Does the significance attributed to air quality considerations present a positive framework which is consistent with national policy, justified and effective, and will contribute to the achievement of sustainable development within the District?**

**Question 36. Is Policy AF1 consistent with the presumption in favour of sustainable development and national policy? Is the policy justified by appropriate evidence to suggest that harm to Ashdown Forest Special Area of Conservation and Lewes Downs Special Area of Conservation will take place, in the absence of mitigation, as a result of the envisaged level of Local Plan Growth, and in combination with other plans and projects?**

Wealden District Council has shown that every development in the District is a potential habitats site under the Habitats Regulations due to its effect on Ashdown Forest SAC and Lewes Downs SAC and therefore, will require an appropriate assessment. The NPPF (2012) at paragraph 14 footnote 9 and para 119 states that the presumption in favour of sustainable development does not apply where development requires an appropriate assessment.

In our response to Question 20 we explain that we believe the that the nitrogen load from the increased traffic generated by the Plan will be greater with the Plan than without it. As the nitrogen load is already above the critical load and will be at the end of the Plan period, the effect of the Plan is to increase the load, which clearly will cause an adverse effect. We believe that harm to Ashdown Forest Special Area of conservation will take place, in the
absence of mitigation, as a result of the envisaged level of Local Plan Growth, and in combination with other plans and projects.

Question 37. How will the delivery mechanism work? Who is responsible for it? How does it mitigate any adverse impacts, and is there a clear direct link between development and mitigation on a pro rata basis? Should there be one? Is there a difference between the mitigation required for development already identified within the Plan and development which is in addition to that which has already been considered within the Plan’s HRA?

We have difficulty with these series of questions because they are predicated upon a successful mitigation strategy being devised. The current mitigation for the SAC, being the four conditioned items h) – k) in policy AF 2, plus developer financial contributions towards as yet unknown measures, fails to comply with the Habitats Regulations requirement of leaving no reasonable scientific doubt as to the absence of adverse effects.

Without sight of a robust mitigation strategy, it is not possible to postulate how the delivery mechanism would work, nor assign responsibility for delivery, although the Council would have to retain overall responsibility for ensuing that no adverse effect occurred.

The remaining questions can only be answered once the nature of the mitigation is known.

**Issue 3: Are policies EA1 – EA3 positively prepared, consistent with national policy and justified?**

**Question 42. Are policies EA1 – EA3 predicated on robust evidence in terms of impacts and proposed mitigation?**

Considerable evidence indicates that the protected birds in the Ashdown Forest SPA are at risk from visitor disturbance and thus any increase in visitor numbers is likely to cause an adverse effect to the conservation objectives.

Policy EA 2 is concerned with and mitigating the risk of increased visitor disturbance and proposes two methods – SANGS and SAMM. There is no evidence of an up to date assessment of the effectiveness of these measures.

The Habits Regulations require it to be sufficiently certain that the mitigation/avoidance measures will sufficient to avoiding harm arising from the Plan to the integrity of the SPA by guaranteeing beyond all reasonable scientific doubt that the Plan will not adversely affect the integrity of the SPA. By not providing any evidence pertaining to their mitigation/avoidance measures, the Council has not complied with the Habitats Regulations.

Until satisfactory evidence can be provided, no development should be planned or granted permission wherever there may be a risk of increased visitor disturbance.
We welcome **Policy EA 3 Green Infrastructure** but would like the council to commit to a timeframe for completing the Green Infrastructure Strategy Supplementary Planning Document (SPD) as we feel that this is essential for the success of the plan in terms of the protection of the natural environment.

**Issue 4: Whether the approach to development within the High Weald Area of Outstanding National Beauty is justified, effective and consistent with national policy?**

**Question 46.** Having regard to the core planning principles set out within the Framework, and the exceptional circumstances and public interest tests set out in paragraph 116 of the document, is the development proposed within the AONB, including that which could take place within extended settlement boundaries, soundly based?

The AONB - all of it - was designated for the ‘highest status of protection’ because it is some of the most precious and beautiful countryside in the land. The NPPF 2012 does not require that objectively assessed needs are met ‘at all cost’ – para 14 requires that:

‘Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted⁹.’

Footnote 9 states ‘For example, ... Area of Outstanding Natural Beauty.’ (para 116)

We do not believe that the development proposed within the AONB in the submission Local Plan is soundly based.

The ‘Development in the High Weald Background Paper’ Jan 2019 states that ‘Work on assessing the Objectively Assessed Needs (OAN) for housing and economic development, and development sites to meet those needs, has acknowledged that it is necessary to identify sites within the High Weald Area of Outstanding Natural Beauty (AONB) to ensure that the full development needs of the District can be met.’

This approach does not comply with the NPPF which (para 116) requires that permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.

An approach which is sound should read;
Work on assessing the Objectively Assessed Needs (OAN) for housing and economic development, and development sites to meet those needs, has acknowledged that it is necessary to identify consider sites within the High Weald Area of Outstanding Natural Beauty (AONB) to ensure that assess whether the full development needs of the District can be met.’

By requiring the allocation of AONB sites to meet the housing target, Wealden has created a circular argument for their ‘need’. This goes against the purposes of the designation which are ultimately prioritise the AONB for ‘conservation’ – not as a place for major development, as set out by Parliament through the Countryside and Rights of Way Act (2000) and other legislation.

Note also that para 116 requires both that there are ‘exceptional’ circumstances for the development ‘and’ the public interest tests are met. This is a process which has two necessary parts. We do not see any evidence that these circumstances are exceptional. The misinterpretation of this requirement is also apparent in para 2.56 of the High Weald Background Paper - ‘Given the above, of particular importance for further growth is the recognition within the NPPF that the siting of major development in the High Weald AONB would be inconsistent with the aims of the designation, and that only proven national interest and a lack of alternative sites (i.e. paragraph 116 of the NPPF (March, 2012)) can justify an exception.’ The national interest and lack of sites do not constitute the exceptional circumstances.

In terms of what constitutes ‘major’ development, we believe that the Wadhurst site allocations should be assessed for their combined impact on the High Weald as major development around a small(ish) settlement for para 116 purposes. Also, where the background paper argues, for example in para 4.23, that allocations on the edge of a settlement of this scale ‘would not normally be described as major development’ this is erroneous. Even allocations on the edge of settlements within the High Weald can be considered ‘major’ (as an example see (also in the High Weald) a 27-home development just outside a village boundary which is treated as a major development and development refused (on appeal) despite the LPA (Ashford BC) having a housing supply shortfall. Appeal ref: APP/E2205/W/16/3151327.)

**Question 47. In particular: (a) what is the need for the development proposed, including in terms of national considerations? (b) what is the likely impact of permitting, or refusing, the housing development on the local economy? (c) is there scope for providing for the housing development outside of the AONB, or meeting the need for it in some other way? (d) what is the likely effect of the development on the environment, landscape and recreational opportunities having regard to the potential for moderation?**
a) According to the Housing Needs Survey Report (August 2016) a small number of affordable homes may be needed in the AONB settlements which have housing allocations within the Local Plan. To be effective and to be in accordance with national policy a Local Plan must deliver not only the right number of new homes but also the right types of homes to meet the assessed need [paragraph 50 of the 2012 NPPF; paragraph 61 in the 2019 NPPF]. Statistically the highest level of need is for 1 or 2-bed affordable homes. See as a comparison, Policy SD27 (appendix) of the emerging SDNP Local Plan. This policy was found sound at Examination. The RUGA policies do not specify which types of homes should be built and policy HG9 Housing mix is largely silent about the AONB. It is our view that these allocations will create executive homes in the countryside, not the affordable homes needed by local people.

b) We cannot find evidence of an assessment of how this need could be met another way, by exploring alternative ways of providing the affordable housing, for example through the development of community-led housing or the Council building social housing itself. Changes in housing legislation have given Wealden District Council the opportunity to build new Council homes in the district. The council has to date has completed 124 new homes to rent in Hailsham, Willingdon, Crowborough, Forest Row, East Dean and Cross in Hand. This would be a much more effective way of meeting the need for affordable homes.

c) In our response to the pre-submission Wealden local plan 2018 we objected to the inclusion of sites within the AONB due to the harm they would cause this important landscape, even with proposed mitigation. For example, in relation to Policy RUGA 2 - Land South West of Ghyll Road, the AONB background paper recognises that the site has “moderate visibility, high landscape sensitivity and very high landscape value, and therefore low landscape capacity. It notes that its location within the High Weald AONB and the coherent ancient landscape pattern, gives the site a very high landscape value.” We disagree that the mitigation proposed through policy will moderate the impacts of new development to an acceptable level. We would like to see a review of the Wealden Local Plan Sites - Landscape and Ecological Assessment (July, 2017) carried out by the Council, in partnership with the High Weald AONB unit before sites within the AONB are allocated and included in Wealden’s Housing Target.
Strategic Policy SD27: Mix of homes

1. Planning permission will be granted for residential development that delivers a balanced mix of housing to meet projected future household needs for the local area. Proposals should provide numbers of dwellings of sizes to accord with the relevant broad mix.
   a) Proposals for affordable housing delivered as part of a market housing scheme should provide the following approximate mix of units:
      1 bedroom dwellings: 35%*
      2 bedroom dwellings: 35%
      3 bedroom dwellings: 25%
      4 bedroom dwellings: 5%
   b) Proposals for market housing should provide the following mix of units:
      1 bedroom dwellings: at least 10%
      2 bedroom dwellings: at least 40%
      3 bedroom dwellings: at least 40%
      4+ bedroom dwellings: up to 10%

2. Planning permission will be granted for an alternative mix provided that:
   a) Robust evidence of local housing need demonstrates that a different mix of dwellings is required to meet local needs; or
   b) It is shown that site-specific considerations necessitate a different mix to ensure National Park Purpose 1 is met.

3. Development proposals will be permitted for residential development that provides flexible and adaptable accommodation to meet the needs of people who are less mobile, or have adult homecare requirements. Development proposals of 5 or more homes will be permitted where it is clearly demonstrated that evidence of local need for older people's or specialist housing is reflected in the types of homes proposed.

*1 bedroom affordable dwellings may be substituted with 2 bedroom affordable dwellings.