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Wealden District Council Local Plan Examination
Matter 2: Vision and Objectives and Local Plan Growth

On behalf of Mr William Fattal

May 2019
DHA/13308
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Introduction

1.1 Purpose of this statement

1.1.1 These comments are prepared on behalf of Mr William Fattal in respect of the Wealden District Council Local Plan Examination. They respond to the Matters and Issues Paper Stage 1 (Matter 2) key questions set by the Inspector on 9th April 2019.

1.1.2 Mr Fattal is promoting land adjacent to Jonas Drive, in the Durgates area of Wadhurst (Wealden SHELAA reference: 58/3330) and has numerous interests in respect of the emerging plan. Nonetheless, the comments contained herewith relate to matters of a strategic nature that go to the heart of soundness and legal compliance in line with the initial questions posed by the Inspector. Site specific comments will be added should the Examination proceed to stage 2 detail in due course.

1.1.3 In formulating these comments, we acknowledge that the Government published a revised National Planning Policy Framework in February 2019 but that because the Council chose to submit its Local Plan for examination before 24th January 2019 the policies in the original 2012 framework apply to this Examination. On this basis, any reference to the NPPF relates to the 2012 publication and to be “sound” it must be:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

1.1.4 In formulating this response, we have addressed the Inspector’s questions directly and recapped our Regulation 19 concerns. Given many of questions are directed specifically to the Local Planning Authority, our responses have been limited to only those matters relevant to our client’s Regulation 19 response.

1.1.5 Our client will confirm in due course as to whether he wishes for us to participate in the oral sessions of the Examination.
Matter 2: Vision and Objectives and Local Plan Growth

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

Are the key local plan objectives which have been identified relevant; justified; and consistent with National Policy?

1.2.1 We consider the objectives of the local plan are reasonable. However, we have concerns as to whether the strategy will deliver the objectives and how development will be distributed. For example, major settlements such as Crowborough and Wadhurst are not being afforded the opportunity to sustainably evolve with development too heavily weighted towards sites of a strategic nature in constrained areas that require major infrastructure upgrades before they can commence.

Is the Plan period effective, justified and consistent with national policy?

1.2.2 An integral part of the plan must be to meet objectively assessed needs ‘with sufficient flexibility to adapt to rapid change’. In our view the plan fails this test.

1.2.3 The plan essentially sets out a housing provision for each settlement, with both the scale of allocations and any subsequent windfall allowance identified. However, as drafted, this would create an incredibly rigid planning strategy that would not allow flexibility for change. For example, Crowborough has no formal allocations and a windfall allowance of only 136 new homes for the remainder of the plan period (14pa between 2018 and 2028). The nature of the plan therefore means that it encourages a ‘first come first served’ approach rather than to encourage the right homes in the right location.

1.2.4 At a smaller scale, a number of villages are afforded growth of less than 10 units for the plan period, which will stop regeneration or natural evolution and flies in the face of the objective to plan for future generations.

1.2.5 With the economic uncertainties surrounding Brexit, it is essential that development opportunities are encouraged to come forward where they would deliver genuinely sustainable development. Policies and plans must be of sufficient flexibility to allow a degree of change and to ensure development is not brought to a halt. The lack of flexibility renders the plan ineffective and it is clearly not positively prepared.

1.2.6 Finally, as set out within our earlier Regulation 19 response, the plan lacks clarity and does not give decision makers a clear indication of how development should proceed, in line with paragraph 154.

1.3 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?

1.3.1 We recognise the Council’s duty to consider the likely significant effect of development on designated European sites, as stipulated by the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Furthermore, we appreciate that the plan may only be allowed if it can be proven that an adverse effect will not take place to the integrity of the site taking into account the site’s conservation objectives. However, the process of considering the scale of development and appropriate mitigation has become so complex and lacking in transparency that a reasonable resident or professional would struggle to determine how such matters must be tackled in the future.

1.3.2 This again links back to paragraph 154 of the NPPF (2012) that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. The associated evidence base upon which the plan is built must therefore be more transparent to ensure adequate scrutiny.

1.3.3 In our view, Strategic Growth policies are not geared toward meeting the maximum amount of development and infrastructure to meet objectively assessed development needs and are not utilising wider opportunities to provide beneficial impact to the protected areas. For example, given vehicular emissions are one of the most significant aspects of harm caused to the protected sites, a blanket policy should be included that encourages all development proposals that will provide a demonstrable decrease in vehicle movements on brownfield/existing commercial sites.

1.3.4 Furthermore, we are extremely concerned about the disparity between Wealden District Council and the other local planning authorities that lie in close proximity to the relevant protected sites. Within their joint response, South Downs National Park Authority, Lewes District Council and Tunbridge Wells Borough Council make a series of genuine concerns.

1.3.5 Based on the above comments, we are further concerned that the complexity and presentation of the evidence is an attempt to disguise fundamental flaws within the overall evidence base upon which the plan is predicated.

Is a simple reading of policy AF1, that all development, irrespective of whether it is included within the list of categories set out in footnote 14 of the LP, or where it is located within the Plan area, is reliant on the action of the LPA? Does this raise any risk to the delivery of development within the Plan? Would development be dependent on the delivery mechanism being created or implemented?

1.3.6 Given the wording of the policy and reliance upon the actions of the LPA, this could potentially cripple the development industry and cause major delays to the delivery of the plans objectives. Furthermore, in the absence of the appropriate action the policy provides no flexibility to rapidly respond to change as the presumption requires.
1.4 **Issue 3: Are policies EA1- EA3 positively prepared, consistent with national policy and justified?**

1.4.1 The NPPF is clear (with our underlining) at paragraph 109 that the planning system should contribute to and enhance the natural and local environment by **minimising impacts** on biodiversity and providing net gains in biodiversity **where possible**, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. In contrast, policy EA1 seeks to introduce a more onerous test that development should not result in any net loss of biodiversity.

1.4.2 We consider the policy should be realigned so as to be consistent with the NPPF insofar as every effort should be made to minimise impacts albeit recognising that it will not always be possible to do so.

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

*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?*

*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?*

1.5.1 We recognise that Wealden is a constrained borough, but still consider full development needs should be addressed. In doing so, we consider a more appropriate balance of disbursed smaller ‘non-major’ development proposals, such as my client’s site at Jonas Drive, Wadhurst, could have potentially resulted in a lesser degree of overall harm than the pursued strategy.