WEALDEN LOCAL PLAN
EXAMINATION

HEARING STATEMENT
ON BEHALF OF
RYDON HOMES LTD

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?**

32. **Are the key local plan objectives which have been identified relevant, justified and consistent with National Policy.**

No. In particular :-

- The Vision should include the main town of Crowborough alongside Hailsham and Uckfield as the main focus for the provision of retail, leisure, employment and housing development. It has the existing scale, importance, public transport and services that merit at least equivalent potential to Hailsham and Uckfield to support new development and it needs regeneration and revitalisation following the withdrawal of the Council Offices from the town.

- Spatial Objective 1 – Housing makes insufficient provision for the level of housing that is needed, covers too short a period and relies too much on windfalls. The north/south balance of development is not sustainable or realistic. The emphasis is correctly upon the less constrained south but there is too little focus upon meeting the needs, market attraction and development potential of the northern part of the District, particularly Crowborough with its unrivalled rail links and connecting to the major town of Tunbridge Wells.

In these ways the key objectives do not reflect the core principles in Paragraph 17 of the Framework taking account of market signals such as land prices and housing affordability and allocating sufficient land which is suitable for development. Neither will the strategy meet the requirements of Paragraph 47 of the Framework to meet the full objectively assessed needs for market and affordable housing in the housing market area – which includes not only Wealden but neighbouring authorities. There is no recognition of this wider responsibility in the spatial objectives set out in the Plan.

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

No. Over 6 years of the Plan period has already passed and there will probably be only eight or so years remaining by the time it is adopted. National policy states that a 15 year time horizon is preferable and that longer term requirements should be taken into account (Framework Para 157). The period should be judged looking forward and eight years is not an effective period to realise the Plan’s objectives or provide a stable platform for the delivery of the necessary development and infrastructure with the required level of certainty. There is no justification for such a truncated period other than the inadequacy of the evidence base to support a longer term approach. This should not be used as a reason to support a Plan that is unsound and in conflict with National policy because of its short-term relevance. The Plan is fundamentally unsound as a result.
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?

34. Why is the Council’s proposed Main Modifications to remove reference to the Pevensey Levels Special Area of Conservation and Ramsar site required to make the Plan as submitted sound?

No comment.

35. 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?

Yes, this is a critical problem. The mitigation and delivery mechanism upon which Policy AF1 is founded is not sufficiently advanced for it to be properly understood what will be implemented, when actions will be carried out and whether they will be effective in controlling air quality issues. The simple payment of a tariff is no guarantee. Furthermore Wealden have not been forthcoming as to whether they will permit developments not allocated in the Local Plan to participate in their tariff-based mitigation scheme. In the absence of a clear and effective mitigation strategy that is open to all development proposals there is a clear risk to the delivery of development identified in the Plan and also to any additional development that qualifies under Policy AF1(a). There is no guidance as to what “suitable mitigation measures” might gain the approval of the “competent authority” at any given time. This is particularly the case in the light of the current disagreement between Wealden District Council and Natural England over the effect of traffic from new development on air quality and the strategy for enhancement of the condition of the SACs. Prospective developers need a high degree of certainty before committing funds and resources to development projects. The uncertainty of having to rely upon an undefined response to mitigation proposals and an ill-defined/incomplete mitigation delivery mechanism has already deterred and frustrated the delivery of development in the District and will continue to do so unless a sound Local Plan is put in place.

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?

The conservation and enhancement of the natural environment is an important part of the concept of sustainable development. European designated sites require special protection and Paragraph 119 of the Framework (2012) confirms
that the presumption in favour of sustainable development does not apply to situations where development projects require appropriate assessment under the Birds or Habitats Directives. However, Paragraphs 166 and 167 of the Framework require a joint and consistent approach to the assessment process, a robust evidence base and assessments should be proportionate and responsive to early consultation with key stakeholders. These elements are not consistent with the WDC position and the policy is not justified by appropriate evidence of harm to the SACs in the absence of mitigation. The consultation response from Natural England and the assessments submitted by Aspect Ecology, Phlorum (Air Quality) and WSP (Highways) as part of the Rydon Homes representation are testimony to this.

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?**

The mitigation strategy relied upon by Policies AF1 and AF2 is not sufficiently identified, assessed or potentially effective to give any reasonable level of confidence that it will work. The payment of financial contributions does not, of itself, provide mitigation and there is no clear plan for the extent, timing, funding or implementation of the mitigation measures that are suggested. Policy AF2 is unsound because it gives no assurance that the effects of individual developments will be mitigated as they are delivered. The misdirected focus of mitigation on traffic generation undermines the effectiveness and soundness of Policies AF1 and AF2.

38. **Is criterion a) of Policy AF1 clear what development will fall within its remit and how developers should satisfy its requirements? Is the policy internally consistent in how the Lewes Downs SAC and the Ashdown Forest SAC are treated? What evidence is there that the harm would ensue without mitigation and that the mitigation measures set out within Policy AF2 would be effective and directly relate to the proposed development?**

Rydon have concerns about the theory and practicality of this point. Policy AF1(a) theoretically allows for development additional to that proposed in the Plan to be permitted provided it can be demonstrated that the proposals will not adversely affect the integrity of the SAC Habitat sites. In practice:-

- if the Plan has correctly assessed the limits to development potential across the District, then this task should be impossible. Any implied flexibility is therefore illusory. If it is not, then the Plan should be less restrictive and is not positively prepared.

- the policy does not make it clear as to whether any such assessment is to be made on the assumption of mitigation from financial contributions being available to promoters of any development in addition to that identified in the
Plan. To date, WDC have not indicated a willingness for the promoters of such developments to participate in their tariff-based mitigation scheme.

- WDC have taken an overly cautious and inappropriately narrow view upon the assessment of likely effects on the Habitats sites. It is therefore difficult to see how any Shadow Appropriate Assessment or other evidence, including that supported by Natural England advice, will convince them, as decision-maker, that any development in addition to that identified in the Plan will not adversely affect the integrity of the Habitat sites.

Rydon align themselves with the position of Natural England and others who say that there is insufficient evidence that harm would ensue without mitigation and that enhancement of the currently degraded habitat would be better achieved with a broader, clearer and more effective enhancement policy, produced and delivered collectively by all the relevant agencies including Natural England.

39. **What would be the impact on development viability of the proposed financial obligations set out in the *Air Quality Mitigation – Interim Mitigation Strategy Tariff Guidance for Residential Dwellings and Business Development.***

No comment.

40. **Are the two policies consistent with the CIL Regulations?**

No. There is conflict with Regulation 122(2)(a-c). Financial contributions are not necessary because, on Natural England advice, no mitigation arising from new development proposals is necessary to make it acceptable, the degradation of the Habitats site is not directly related to a specific development proposal and the mitigation measures are so ill-defined that it is not possible to determine whether they are fairly and reasonably related in scale and kind to any particular development proposal.

41. **Specifically, how would such measures set out in Policy AF2 be differentiated from other strategies, good practice and the wider principles of sustainable development consistent with core planning principles of the Framework?**

Such a differentiation is not possible on the basis of the Plan as proposed.
**Issue 3:** Are Policies EA1 – EA3 positively prepared, consistent with National policy and justified?

42. **Are Policies EA1-EA3 predicated on robust evidence in terms of impacts and proposed mitigation?**

To the extent that these are generic and conventional policies for the protection of Habitat sites the policies are robust and are probably all that is required in the Plan.

43. **Are these policies consistent with the CIL Regulations?**

Policy EA2 is not CIL compliant in that it requires financial contributions to be collected on a standard basis rather than as part of any bespoke mitigation that is necessary to make any individual proposal acceptable. Reasons are as in Q40 above.

44. **What is the justification for setting out the 400m and 7km thresholds? Is it clear what is meant by “large residential developments”?**

Clarification of the term “large” is necessary for clarity.

45. **Are the policies consistent with National policy?**

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

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?**

In general yes subject to two minor modifications.

1. In Policy EA5 the extent of the AONB should be described as “identified” on the Proposals Map because it is “defined” by the Countryside Commission and the Proposals Map simply records its extent.

2. The restriction to “small scale” development needs at least to be defined. However, for consistency with Paragraph 116 of the AONB, and to allow medium-size development that is not harmful, Policy EA5 should state that major developments will only be permitted in exceptional circumstances and all development will be expected to meet the four, stated criteria. There is nothing in the evidence base or National policy that justifies the restriction of development in the AONB to “small scale” only.

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?**

Much of the District lies within the AONB and future housing, employment and other development needs identified for the District will have to be met, in part, within the AONB. This is particularly relevant to the limited growth of villages and other development that is essential to support the vitality and sustainability of the rural economy. Where possible housing development should be directed to locations outside the AONB, where a choice exists. This is the situation in the town of Crowborough where extensive areas of land to the south-east of the town and lying outside the AONB are suitable for housing development. It is therefore questionable why the Submission plan chooses housing allocation at Crowborough within the AONB rather than outside it. However in rural areas and particularly those villages washed over by the AONB there is potential harm to local housing needs and the local economy if restrictions on new development are unduly proscriptive. Unlike the Green Belt, AONB Policy does not seek to prevent new development in principle and indeed the AONB landscape includes elements of built development that add to its diversity, quality and cultural
heritage. Also the degree of restriction must be proportionate and should not be seen as rivalling the level of development control that is appropriate in a National Park or other higher order designation. The primary consideration is that in planning decisions great weight should be given to conserving landscape and scenic beauty and this should be achieved by the application of specific criteria and objectives to the assessment of individual development proposals rather than a blanket policy objection to all new development. The indicators attached to Policy EA5 are inappropriate because they are based on the monitoring of quantity of decisions rather than quality.