Question 58

Windfall

1. Question 58 contains a number of questions regarding the scale of windfall development included in the housing supply figures of the plan. Before dealing specifically with those questions it is appropriate to consider the council’s overall approach to windfall development.

2. Paragraph 6.16 of the submission plan defines windfall sites as “development sites which are not included as allocations or SHELAA sites identified within this Plan as part of the housing land supply, but which subsequently become available for housing development. Whilst windfalls are not planned, they are an expected type of development and, as such, contribute towards development provision in Wealden.”

3. Against that background it should be noted: -

   a) There was no allowance for windfall sites in the CSLP – a major component of the development plan for Wealden District.

   b) There was no windfall allowance considered as part of the Wealden Local Plan Issues, Options and Recommendations Consultation document. (Doc A30 (Housing BP) Paragraph 2.2.2, page 8).

   c) The 2017 plan that was considered by the council but not published for consultation allowed for the 292 windfalls (Doc B47, paragraph 6.21, page 51). As stated in paragraph 1.13 of the Submission Local Plan, this Draft Proposed Submission Plan did not progress to Representations stage or consultation, but it formed the basis of the Wealden Local Plan.

4. Included in the ‘Components of Housing Land Supply for the Wealden Local Plan’ as set out in Table 13 of the Housing Background Paper (Doc A30, page 56) is a figure of 2516 dwellings to be achieved as a result of windfall. This figure clearly does not flow from the earlier stages of the plan but represents a clear and fundamental change in overall strategy that is not explained in the plan. The failure to justify this markedly different approach is significant in assessment of the overall potential delivery of housing in the manner predicated in the plan. That is a matter that becomes all the more important when one assesses the manner of approach towards windfalls in the plan.

5. The final point to make regarding the treatment of windfalls overall is the difference between the accepted definition of windfall development and the council’s approach.
6. The NPPF defines windfall as “Sites which have not been specifically identified as available in the Local Plan process. They normally comprise previously-developed sites that have unexpectedly become available.” That generally accords with the WDC definition in paragraph 6.16 as development which is “not planned”.

7. Paragraph 48 of the NPPF defines the manner in which LPAs may make a windfall allowance, which requires ‘compelling evidence’ that site have consistently becomes available and will continue to provide a reliable source of supply. Any allowance should be realistic and should not include residential gardens.

8. From a point in the plan process where no windfalls were included, to a point where they make up almost 18% of overall supply, the council has failed to explain the significant change in approach.

9. The council’s effective ‘allocation’ of windfall development to towns and Parishes in policy WLP 7 is entirely inappropriate. In some instances, such as Uckfield, the potential for windfall sites is limited to very specific parts of the town. In some instances, such as Uckfield, the potential for windfall sites is limited to very specific parts of the town. Our experience is that a development site which is abutting the boundary but outside a specific ‘windfall area’ cannot proceed – it effectively becomes inappropriate windfall as opposed to appropriate windfall in a policy sense. There is no basis for such an approach. In other cases, where Core Areas exist, windfall development within, or immediately abutting a boundary is acceptable (although presumably not on garden areas within Core Area boundaries), but elsewhere, even in very close proximity to a Core Area, windfall proposals are automatically unacceptable. Windfall in this local plan is not in accordance with the NPPF definition; it is much more closely defined and located.

10. There is one other overall point about windfall that needs to be made before specifically dealing with the Inspector’s questions in Matter 4, and that is the significant disparity between windfall to ‘allocations’ in the north and south of the District.

11. There are no strategic development allocations in the north of the District at all; the two largest settlements, Uckfield and Crowborough, are excluded from the process of distribution of housing in that respect. However, by contrast, there are anticipated to be 1008 dwellings coming forward from windfall development in the north of the District. These figures are derived from an analysis of policy WLP7. That is not by any means a ‘plan-led’ approach.

12. The plan should therefore be modified so that there is an appropriate level of certainty about the supply of housing land coming forward. The contribution of windfall sites to the overall projected housing supply should therefore be dramatically reduced. In particular the plan should include specific strategic allocations of development in the north of the District, including Crowborough and Uckfield. In Uckfield, there is land appropriately located for development south of the town that could
be allocated and come forward with certainty during the plan period, and that is the approach that should be taken in the plan, which should be modified accordingly.

13. Against the background of that overall position, brief comment is now made on the specific questions asked by the inspector regarding consistency with national policy.

**Deliverable**

14. The nature of windfall development is that it is inherently difficult to predict its delivery with any certainty. As a relatively small element of overall supply that is not a serious difficulty. With windfall at almost 18% of overall supply the actual amount of windfall that will come forward fundamentally affects the soundness of the plan. In essence, the council cannot be at all certain that the windfall it has included is deliverable. The highly specific and segmented manner in which the windfall allowance is allocated to specific sites and Parishes increases the uncertainty because not only must there be suitable potential windfall sites available in total, they must be in the ‘right’ places.

**Realistic**

15. The level of windfall development in the local plan is far in excess of levels previously anticipated by the council during the present plan process (from zero in the Regulation 18 plan). The figure appears to be an extrapolation of windfall development over a recent three-year period rather than any realistic assessment of the extent of land that is likely to come forward in the specific locations envisaged by the local plan. The achievement of such high levels of windfall in such specific locations is unrealistic.

**Justified**

16. The justification for the high level of windfalls flows from Table 15 in the Housing BP (Doc A30, page 61), which sets out the number of windfalls in specific areas over a three-year period. It then projects windfalls over a further eight-year period simply by assuming that future windfalls in each area will come forward at the same rate per annum. That in itself is not a properly justified way in which to deal with the matter without a more extensive comparison with previous windfall levels.

17. That is the case because the level of windfall development in Wealden in the recent past must have been increased by the fact that the council has not had in place since 1998 an adopted local plan with specific development allocations, such that all development in the District has, in effect, been windfall development. The CSLP did deal with the general disposition of development in the District but did not contain specific site-based proposals.
18. Extrapolating windfall from recent past rates and including it as a major feature of the housing allocation of the local plan is not justified.

Core Areas

19. The final question on this matter concerns the definition of Core Areas, to which paragraph 6.13 of the Submission Plan is relevant. The council’s approach is that there is a difference between ‘Development Boundaries’ and ‘Core Areas’. The former relate to urban areas and are drawn on the periphery of the settlement to contain development. The latter define only the ‘heart’ of a settlement and prevent development in the remainder (i.e. on any land that does not have a contiguous boundary with the Core Area boundary). The council says that development boundaries result in larger scale development than is appropriate in villages (although why that should be the case is not clear), while Core Areas allow only small-scale proposals to come forward (and that larger scale development in villages should be prevented. How the boundaries of Core Areas are defined is not clear, but they are inherently perceived to be a means of preventing development (and experience of the council’s recent approach to development in settlements with Core Areas confirms that is the case).

20. The use of development boundaries enables a properly balanced assessment to be made of proposals for development within the boundary. The use of Core Areas has the opposite effect by introducing in principle objection to development in a settlement other than in the Core Area and is this not a positively approach. The use of Core Areas is thus an unsound approach to the location of new housing.