**Exploratory meeting – summary of the Inspector’s concerns**

**Introduction**

1. The purpose of this note is to set out the main concerns that have led me to call an exploratory meeting. This does not mean that I have concluded that the Core Strategy (CS) is unsound or is not legally compliant at this point. However, before progressing to arrange hearing sessions there are key matters that merit further discussion.

2. The focus of my concern is the legal requirement that the CS should be in general conformity with the Regional Strategy (RS) – in this case the South East Plan (SEP). The Council is aware of the recent Court of Appeal judgement in the Cala Homes case whereby "it would be unlawful for a local planning authority preparing, or a Planning Inspector examining, development plan documents to have regard to the proposal to abolish regional strategies. For so long as the regional strategies continue to exist, any development plan documents must be in general conformity with the relevant regional strategy."

3. The scale of housing development proposed in the CS is significantly short of that in the RS and, having considered the evidence base that seeks to justify that position, there is further information that I require and a number of questions that need to be addressed. The scale and distribution of housing development is central to the CS and linked to the provision of both employment and retail floorspace.

**Scale of Housing Provision**

4. The SEP in Policy H1 provides for total net dwelling completions of some 11,000 dwellings in Wealden District between 2006 and 2026, an annual rate of 550. The SEP subdivides these figures between that part of the District that falls within the Sussex Coast Sub Region (7,000 dwellings or 350 per year – Policy SCT5) and the rest of the District (4,000 dwellings or 200 per year – Policy APSR5). These totals are not expressed as minimum targets. The CS provides for 9,600 dwellings over the period 2006 to 2030, four years longer than the RS plan period and an annual average of 400 dwellings.

5. The Council has provided some figures, based on the CS housing trajectory so that a direct comparison can be made between the provisions in the two plans for the period 2006 to 2026:

<table>
<thead>
<tr>
<th>Area</th>
<th>Total provision</th>
<th>Annual provision</th>
<th>CS as % of SEP</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SEP</td>
<td>CS</td>
<td>SEP</td>
</tr>
<tr>
<td>District total</td>
<td>11,000</td>
<td>8,189</td>
<td>550</td>
</tr>
<tr>
<td>Sussex Coast Sub Region</td>
<td>7,000</td>
<td>4,382</td>
<td>350</td>
</tr>
<tr>
<td>Rest of Wealden</td>
<td>4,000</td>
<td>3,807</td>
<td>200</td>
</tr>
</tbody>
</table>
6. These show that the difference in housing provision is significantly more pronounced in the Sussex Coast part of the District.

7. The trend-based projections produced by ONS show an increase in population in Wealden between 2006 and 2030 of around 19,000 people or 16,800 households. Those produced by East Sussex County Council for 2006 to 2031 show an increase of 20,000 people, 13,500 households or 13,000 additional dwellings.

8. The SHLAA addendum, published in October 2010 identifies a total housing potential for some 22,755 dwellings 2009-2026. The Council considers these sites to be suitable, available and achievable but this is on the basis of individual site requirements only and not cumulative impacts. While inclusion in the SHLAA does not imply that a site is appropriate for development, the availability of land per se is not identified as a constraint in achieving the SEP housing provision.

9. The Council’s housing needs survey shows an annual affordable housing need of 812 dwellings. The CS recognises that many first time buyers, key workers and lower income households find it extremely difficult to gain a foothold in the local housing market. However, it is not clear what the Council’s view is of the level of housing need during the plan period, irrespective of any considerations of infrastructure or environmental capacities to accommodate that growth. Is it that included in the RS with some further provision for the additional 4 years in the CS plan period? What does the Council consider to be the overall level of housing need during the plan period?

10. If the level of growth is not being met within the District is it being provided for elsewhere and, if so, where is this being accommodated? If it is not being met elsewhere what are the likely consequences for the housing needs of the District?

**European Sites**

11. SEP Policy NRMS sets out the approach to sites of international nature conservation importance (“European sites” – these include SACs, candidate SACs, SPAs and Ramsar sites.) It indicates that if, after completing an appropriate assessment of a plan, it cannot be concluded that there will be no adverse effect on the integrity of a European site then the plan will not be approved, irrespective of conformity with other policies in the RS. When deciding on the distribution of housing allocations, local planning authorities should consider a range of alternative distributions within their area and should distribute an allocation in such a way that it avoids adversely affecting the integrity of European sites. In the event that a local planning authority concludes that it cannot distribute an allocation accordingly, or otherwise avoid or adequately mitigate any adverse effect, it should make provision up to the level closest to its original allocation for which it can be concluded that it can be distributed without adversely affecting the integrity of any European sites.

12. The supporting text to Policy NRMS at para 9.22 indicates that where development plan documents make provision for less than they are allocated in the RS (such as fewer housing numbers than those set out in Policy H1) they will need to demonstrate at independent examination that this is the only means of avoiding or mitigating any adverse impacts on European sites. This will involve clearly showing that they have attempted
to avoid adverse effects through testing different distribution options and that the mitigation of impacts would be similarly ineffective.

13. Wealden contains the Ashdown Forest SPA and SAC and the Pevensey Levels Ramsar Site, which is a candidate SAC. The Lewes Downs SAC is in a neighbouring District. The Council’s Habitats Regulations Assessment (HRA) has identified the following as the main issues that development in Wealden could give rise to in relation to these European sites:

- Nitrogen deposition through atmospheric pollution affecting the SACs
- Urbanisation effects on Ashdown Forest SPA and SAC
- Effects on the hydrological regime and water quality of the Pevensey Levels Ramsar Site

14. The effect of air quality on internationally designated nature conservation sites is a concern of SEP Policy NRM9 and water quality and its effects on the environment a factor in Policy NRM2.

15. **Atmospheric pollution** The HRA concludes that the CS will have no adverse effects on the ecological integrity of European sites as a result of atmospheric pollution and that the urbanising and hydrological impacts can be overcome through various avoidance and mitigation measures. This takes account of the 9,600 dwellings proposed during the plan period.

16. The conclusions on atmospheric pollution are drawn from an assessment of the likely increase in traffic on roads in the vicinity of the SPA/SACs. However, this did not consider the impacts of a higher level of traffic growth that might be associated with housing development that accorded with the RS figures. It is not clear therefore whether nitrogen deposition would be a significant factor in the achievement of the RS housing figures.

17. **Urbanisation effects** To avoid adverse effects on the SPA the HRA recommends a 400m zone around the edge of the designated area within which there would be severe restrictions on residential development. Between 400m and 7km residential development would be required to contribute to Suitable Alternative Natural Greenspace (SANGs) at a level of 8ha per 1,000 net increase in population. The 400m zone and the SANGs approach have both been used elsewhere, principally in relation to the Thames Basin Heaths SPA where these factors are addressed in SEP Policy NRM6. However, in the case of the latter the zone within which contributions to SANGs would be required is only 5km. The Wealden HRA refers to the objective of the SEP 5km threshold being to ‘capture’ about 75% of all visitors to the heaths. In the case of Ashdown Forest a visitor survey has been undertaken which shows that only 40% of visitors travelling by car are from within a 5km distance. On that basis a 7km zone is considered to be necessary to capture a similar proportion of visitors as for Thames Basin Heaths.

18. This approach to the SPA raises a number of issues:

- The HRA (Table 6.2) indicates that some 50.5ha of SANGs would be required to offset recreational pressure on the Forest arising from the development proposed in the CS. Is there any evidence as to the likely prospect of achieving this level of provision?
- The 400m zone is shown on the CS Key Diagram but the 7km zone is not. Neither is shown on the Proposals Map. They are not included in a CS policy but are referred to in supporting text. Is this the correct approach?
Do the urbanising effects place a ceiling on housing development in the District in any event? It is the scale of development in the CS that has been examined in the HRA, not the higher RS figures. Would the adverse effects of the higher figure be capable of avoidance or mitigation?

19. The atmospheric pollution and urbanising impacts on the European sites mainly affect development in the northern part of the district where the housing provision is in any event closer to that in the RS. Impacts on the Pevensey Levels have implications for development in the south, in the Sussex Coast Sub Region. These have been subject to appropriate assessment under the Habitats Regulations.

20. **Hydrology and water quality** The HRA concludes that in mitigation for the effects of surface water run-off all development within the hydrological catchment of the Pevensey Levels should incorporate Sustainable Drainage Systems. Is such an approach achievable and if so does this factor present any constraint in delivering the RS housing totals?

21. The Waste Water Treatments Works (WWTWs) at Hailsham North and South both discharge into the Pevensey Levels. They serve not only Hailsham but many nearby villages and the settlements on the fringe of Eastbourne. To preserve the water quality of the Levels the Environment Agency will not increase the consent discharge load for either WWTW. These consents are currently under review and could be varied. While as it stands neither works has reached its consented capacity, the CS proposals take up all the existing headroom at these WWTWs in terms of additional dwellings. Both works are operating using the best available technologies. Water metering and water efficiency measures may increase headroom but, as the Council considers that there is not evidence to support this, a precautionary approach has been adopted.

22. A number of alternative options are being considered by Southern Water (new works, upgrade works at Eastbourne, new discharge point to the sea). A feasibility study is underway but the delivery date for this is 2013. That work would then be used to bid for OFWAT funding in the 2014 bidding round. Each alternative has risks and the Council considers that delivery is uncertain at this stage.

23. SEP Policy SCT5 recognises in a footnote that limitations at the Hailsham Waste Water Treatment Works may require the phasing of housing delivery to allow for the provision of new or improved waste water infrastructure. Waste water treatment at Hailsham is identified as a key infrastructure issue in SEP para 17.14.

24. There are some aspects of the assumptions used in calculating the existing headroom (metering, water efficiency, commercial waste water) that need to be explored further but the key issue is whether housing provision could have been made for the longer term contingent on the resolution of the WWTWs issues – is the level of uncertainty such that housing provision above the headroom level cannot be made at this stage? Is there any evidence on the possible costs of the alternatives and whether they are likely to meet OFWAT criteria or capable of being addressed through an element of developer contributions?
Other Infrastructure

25. The Council points to SEP Policy CC7 which indicates that the scale and pace of development will depend on sufficient capacity being available in existing, better managed or new infrastructure. The South Wealden and Eastbourne Transport Study (SWETS) shows that future development in the South Wealden area will require significant new transport investment. The Highways Agency considers the CS to be unsound as it is not satisfied that improvements affecting the strategic road network are deliverable. Can the Council point to evidence that would address this concern? In any event, to what extent has the housing provision in south Wealden been restricted by transport considerations?

Other Considerations

26. Reasons for the CS total housing provision The Council considers that the housing targets in the CS “particularly reflect the constraints of the Ashdown Forest and the Pevensey Levels with regards to the Habitat Regulations”. However, CS para 3.11 states that “although significant housing need has been identified, and individual sites have been assessed as suitable other environmental, economic, social, infrastructure and community aspirations have shaped the amount of growth that can be accommodated in Wealden”. A range of factors affecting growth are identified in document BP1.

27. Overall it is not clear as to how the particular CS housing figure has been derived. Does it represent the provision up to the level closest to its original allocation for which it can be concluded that it can be distributed without adversely affecting the integrity of any European sites as required by the RS? Or have some of the other factors also played a part? This needs to be clarified.

28. Distribution of housing There are reservations about the ability of the housing market, particularly in south Wealden, to support a higher level of growth. Some representations argue for more housing in settlements in the northern part of the District (which could bring the ‘rest of Wealden’ total above that in the RS). A redistribution of growth from south to north was considered by the Council in Scenario B and the reasons for not proceeding with this are set out in very general terms in the Sustainability Appraisal (SA). However, is there specific evidence of a ceiling on development due to the European sites or other factors that would prevent such a redistribution being achieved?

29. Alternatives and Sustainability Appraisal PPS12 paragraph 4.36 indicates that for core strategies to be justified they must be the most appropriate strategy when considered against the reasonable alternatives. The Council undertook consultation on a range of spatial development options in 2009. Subsequently two strategic distributions of growth (Scenarios A and B) were being tested when the Government’s intention to revoke RS’s was announced (SA, para 8.40). In terms of housing provision these took as their starting point the overall figures in the RS but with Scenario B looking at some redistribution of growth from south to north Wealden. Subsequently in 2010 a further Scenario C was tested which sought to “match growth with infrastructure capacity and meet the aspirations and needs of our local communities” and this formed the basis for the submission CS.
30. The Council will be aware of the High Court judgement in *Save Historic Newmarket Ltd v. Forest Heath District Council* [2011] EWHC 606. The main ground of the challenge was that the Forest Heath Core Strategy had been adopted in breach of the requirements of the SEA Directive and the associated Environmental Assessment of Plans and Programmes Regulations 2004 (SI No.1633), in particular the duty for the ‘environmental report’ (incorporated in the SA report required by English planning legislation) accompanying a draft plan or programme to explain what reasonable alternatives to the proposed policies have been considered and why they have been rejected.

31. While I am not examining the ‘soundness’ of the SA report, could you confirm whether in the Council's view it has fully complied with the requirements of the SEA Directive and associated regulations. In particular, is the Council satisfied that the report accompanying the draft plan adequately summarises or repeats the reasons that were given for rejecting the alternatives at the time when they were ruled out (and that those reasons are still valid)?

32. *Housing commitments*  
The Council has taken as a commitment all the houses built in the District between 2006 and April 2010 plus the extant planning permissions in 2010 and allocations from the 2005 Non-Statutory Wealden Local Plan that are considered deliverable. No allowance has been made for non-delivery or ‘fallout’ of some of these permissions or earlier allocations. What evidence does the Council have on this and should it be taken into account more directly in the housing provision?

33. *Housing data*  
The evidence base includes the Council’s Annual Monitoring Report for 2009/10. Is there any more recent housing data, particularly relating to the matters I have raised and to the CS housing trajectory?

34. While the above details have set out when particular parts of the evidence base were published it would be helpful if the Council could provide a summary list of the evidence produced since the RS was adopted which it regards as new information relevant to the decision to proceed with the lower housing figure.

35. There are a number of other detailed matters in the CS on which I shall be seeking the Council’s further views but I shall write separately on those in due course.

*M J Moore*

Inspector

September 2011