

Wealden District (Incorporating Part of the South Downs National Park) Core Strategy

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Dear Mr Phillips,

Wealden District (Incorporating Part of the South Downs National Park) Core Strategy

1. Following the conclusion of the hearings on 2 February 2012 I have reviewed all the evidence, the written statements and the discussion at the hearings. The Council and the National Park Authority (NPA) have indicated that, under section 20(7C) of the Act, they wish me to recommend any modifications to the Core Strategy that are necessary to make it sound or legally compliant and therefore capable of adoption. The main modifications proposed by the Council and the NPA address a number of the soundness concerns that I have with the Core Strategy and I am grateful for your co-operation in drafting them. However, there are still some outstanding matters on which I consider further modifications are necessary. I have set out the basis for these modifications below:

General conformity with the South East Plan and justification for the scale of housing provision.

2. The main purpose of the exploratory meeting on 12 October 2011 was to consider whether to proceed with the hearings in the context of the legal requirement for the Core Strategy (CS) to be in general conformity with the Regional Strategy – the South East Plan (SEP). The principal concern was the significant difference in the scale of housing provision. On the basis that the Council was of the view that its evidence base was sufficiently robust to support the CS and that the hearings would provide the opportunity for this to be tested I continued with the examination.

3. SEP 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). The CS provides for 9,600 dwellings over the period 2006 to 2030, four years longer than the RS plan period, and at an annual average of 400 dwellings.

4. The Council has helpfully 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:

Area	Total provision		Annual provision		CS as % of SEP
	SEP	CS	SEP	CS	

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District total	11,000	8,189	550	410	74.5%
Sussex Coast Sub Region (South Wealden)	7,000	4,382	350	220	62.6%
Rest of Wealden (North Wealden)	4,000	3,807	200	190	95.2%

5. The different official household projections for Wealden (all 2006 to 2026) can be summarised as follows:

- ONS/CLG (2004) – 14,100 (the SEP figures are in this context)
- ONS/CLG (2008) – 12,218
- East Sussex Co Council (ESCC) migration-led variant (2008) – 11,543
- Wealden DC extrapolation based on previous trends – 8,312

6. Other respondents to the CS have put forward alternative projections to those above. The CS identifies affordable housing need alone as 812 homes per annum, although this would in part be met by measures other than new dwellings. The Council considers that the ONS/CLG household projections are a maximum and least likely to reflect local circumstances. Its preference is to use a range based on the ESCC variant and the mid point between the Wealden extrapolation and the ESCC variant. When converted to housing requirements these give ranges of 8,837 to 10,452 (2006-2026) and 10,521 to 12,121 (2006-2030). The Council's trend-based projection is significantly lower than those produced nationally or by the county council. It is not clear how it relates to wider assumptions about national and international migration and potential implications for other areas. Even if the ranges are the most appropriate, they are still in excess of the CS housing provision for these periods (8,200 and 9,600 respectively). They show requirements in north Wealden that are significantly greater than provided for in the SEP while those in south Wealden are significantly less. Overall, I consider that the Council's projections do not provide a robust demographic basis that would justify departing from the housing provision in the SEP. The CS should be modified to explain that this is the case and therefore that the justification for the CS provision relies on other factors.

7. In accordance with the judgement in *Persimmon Homes (Thames Valley) v Stevenage Borough Council* 'general conformity' leaves some scope for flexibility. Nonetheless, the difference between the levels of housing provision is so significant that on the face of it the legal test would not be satisfied. However, the SEP does provide for circumstances in which its housing provision would not be met. SEP Policy NRM5 indicates that 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 the 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 site. The supporting text states that where provision is less than in the RS the Council 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.

8. Policy NRM5 therefore places the onus on the local planning authority to show that the RS provision cannot be met. As such, if the Council can demonstrate that the approach in the policy has been achieved, the CS would be both in general conformity with the SEP and have a justifiable scale

of housing provision. In this context, the Council has sought to justify the lower level of provision principally on the basis that in its view:

- In south Wealden there is an infrastructure constraint relating to the capacity of the Hailsham North and Hailsham South waste water treatment works (WWTWs) which discharge into the Pevensey Levels – a Ramsar Site and cSAC – which currently operate to the highest environmental standards and cannot be improved. Accordingly development above the existing limited headroom for these works cannot be accommodated until a new solution has been devised. While there are various options the work to explore these has only just commenced. Such an approach is supported by other SEP policies, such as CC7 which indicates that the scale and pace of development will depend on sufficient capacity being available in existing infrastructure to meet the needs of new development.
- In north Wealden levels of development beyond those proposed would have a significant effect on the Ashdown Forest SAC in terms of nitrogen deposition.

Waste water treatment

9. Different views were expressed about the amount of headroom available at the 2 WWTWs, particularly in the light of the possible effect of water efficiency measures and water metering in new development. However, I am satisfied that the evidence is not available that would support different assumptions being made to those used by the Council, the Environment Agency (EA) and Southern Water. Until the capacity issue is resolved I consider that there is a limit on the scale of development in south Wealden that can be served by these works.

10. Southern Water is commencing a study into the options for overcoming the headroom constraints with a preferred option being identified by 2015. The likely solutions are (i) a new WWTW discharging to the Cuckmere River, (ii) extending and upgrading Eastbourne WWTW for discharge at sea (during the hearings it was evident that any capacity at Eastbourne would be taken up by development that would come forward in the Eastbourne CS which has recently been submitted for examination and which, I was informed, has made provision for its SEP housing allocation) and (iii) a new discharge point to the sea with a new WWTW and pipeline. The delivery of the preferred solution would be possible between 2015 and 2020 but subject to Ofwat funding approval, EA environmental permits, planning permission and available land. No party was willing to attach cost estimates to any of the options. The EA is currently undertaking a review of discharge consents to the Pevensey Levels which could affect the two WWTWs and is working in the context of the Water Framework Directive which seeks to achieve good ecological status for all waterbodies and not allow any deterioration in status.

11. While not favoured by the EA in sewered areas, there are examples of package treatment works (PTWs) being used elsewhere. In a recent appeal decision an Inspector was satisfied that this would be a technical solution if issues of connection to the existing foul sewer network could not be resolved. That example did not involve possible discharges affecting a European site. Other parties have promoted their use as a solution in Wealden in relation to specific locations for inclusion in the CS but there is insufficient evidence at this point to be confident that in those cases they would be acceptable in terms of their environmental impacts or effects on flood risk.

12. Under Circular 03/99 the first presumption must always be to provide a system of foul drainage discharging into a public sewer. However, PTWs should be considered where connection to a public sewer is not feasible. In this context, I consider that PTWs should not be seen as a long term planned approach for the CS unless the public sewer option has been shown not to be feasible. At the hearings the EA were asked whether linking development above the headroom level to the

resolution of the WWTWs problem would be a way forward, but they indicated that there would need to be more certainty that there would be an environmentally acceptable solution. I conclude that the CS should be reviewed at the earliest opportunity once sufficient progress towards identifying a solution has been made (by 2015 at the latest) and I am proposing a modification to achieve this. The review should include an assessment of current and future levels of need and demand for housing so that the demographic basis associated with housing provision in accordance with the rate of development envisaged in the SEP can be reappraised as appropriate.

Nitrogen deposition

13. Nitrogen emissions from traffic can increase acid deposition and eutrophication, potentially to the detriment of the Ashdown Forest and Lewes Downs SACs. The Design Manual for Roads and Bridges (DMRB) provides a methodology for a scoping assessment for air quality. This initially requires the identification of roads which are likely to be affected by development proposals. There are several criteria that are used to identify an affected road but the key one here is whether traffic flows will change by 1,000 AADT (annual average daily traffic flow) or more. As applied by the Council in its HRA the DMRB shows no roads in the Ashdown Forest SAC (or Lewes Downs SAC) that would be affected by the development proposed in the CS. This conclusion is supported by Natural England (NE).

14. I am satisfied that the DMRB methodology is the correct approach to a scoping assessment of air quality and that, as concluded in the HRA, the scale and distribution of development proposed in the CS is acceptable in this regard.

15. Based on the DMRB results, one section of the A26 would have an additional AADT of 950, indicating very little headroom for development beyond that proposed without further assessment to determine whether there would be a likely significant effect on the Ashdown Forest SAC. This work has not been done. However, the best available evidence on the existing nitrogen deposition load toward the centre of the SAC is that it significantly exceeds the ability of habitats to withstand deleterious effects. Deposition is likely to be more severe close to road corridors. Furthermore, I am mindful that the traffic modelling does not take account of possible traffic impacts of growth in neighbouring authorities. Although heathland management may have some part to play in mitigating the effects of nitrogen deposition, in the context of these other factors there is sufficient evidence at this point on a precautionary basis to restrict further development in north Wealden beyond that in the CS. On this basis there is not the scope to transfer SEP housing provision from the Sussex Coast SR in the context of SEP Policy SCT5.

16. I have concluded that in relation to the WWTWs issue an early review of the plan is required. Air pollution relating to Ashdown Forest SAC could in the future restrict further development which might otherwise be acceptable. To ensure that the housing needs of the area are being addressed in the context of the Planning for Growth Ministerial Statement, as part of the review, it would be important to establish more accurately the current extent and impact of nitrogen deposition at Ashdown Forest, the potential effects of additional development on the SAC and the possibility of mitigation if required. I therefore propose an appropriate modification to this effect.

Conclusion

17. The CS should make provision up to the level closest to its original SEP allocation for which it can be concluded that it can be distributed without adversely affecting the integrity of any European site. The Council has clarified its approach to phasing with a series of suggested modifications to the plan, linking phasing directly to the provision of infrastructure. This should

ensure that new housing can be brought forward once infrastructure matters are resolved and assist in providing an adequate housing land supply. In general terms, while lead times will vary, I consider that the SDAs could come forward and be developed more quickly than suggested by the housing trajectory. If it became apparent that any of the SDAs could not achieve the rate of development necessary due to infrastructure or market constraints then the strategy could be adjusted at the early review.

18. PPS12 requires that Core Strategies should look over a long time frame – 15 years usually but more if necessary. However, there are significant infrastructure and environmental uncertainties beyond the scale of growth proposed by the Council here that must be addressed and until they are clarified I consider that the plan period should be limited to 15 years – to 2027.

19. With the Council’s phasing modifications and the change to the plan period, housing provision closer to the SEP is achievable and therefore further modifications are necessary to secure this. If the CS provision of 9,600 dwellings related to the period 2006 to 2027 this would amount to an annual average of about 460 – some 17% short of the RS requirement. The deletion of the SDA at Heathfield (see below) would reduce this provision by 160. Based on the unrounded figures provided by the Council the effects of this would be as follows:

	Submitted CS		Effect of proposed modifications			
	CS 2006-2030	CS 2006-2026	2006-2027		2006-2026	
			Total	Annual average	Total	Total as % of SEP
District total	9,574	8,189	9,414	448	8,966	81.5%
Sussex Coast Sub Region	5,197	4,382	5,197	247	4,950	70.7%
Rest of Wealden	4,377	3,807	4,217	201	4,016	100%

20. On this basis the CS would meet the SEP housing requirement in ‘Rest of Wealden’ but still be some 29% short in ‘Sussex Coast SR’ and over 18% below the District total. The modification to the CS proposed removes the 160 dwellings at Heathfield from the existing 9,600 total leaving 9,440 or an annual average of about 450 between 2006-2027.

21. The bringing forward of the end date of the plan also affects the scale of employment and retail allocations. However, these are in part related to the population change associated with the amount of new housing. In the context also of the Ministerial Statement on Planning for Growth, I consider that the size of these allocations should remain the same over the shorter plan period.

Ashdown Forest SPA – visitor impacts

22. The Habitats Regulations Assessment (HRA) has addressed the impacts of possible additional disturbance and urbanising effects from residential development on the SPA and indicates that it cannot be concluded that the CS would not lead to adverse effects on the ecological integrity of the SPA. Avoidance and mitigation measures are required including (i) a 400m zone around the SPA where residential development will not be permitted, (ii) a 7km zone where new residential development will be required to contribute to Suitable Alternative Natural Greenspaces (SANGs), an access strategy for the Forest and a programme of monitoring and research. The measures are

regarded as critical infrastructure in the Infrastructure Delivery Plan (IDP). This approach is supported by NE. I am satisfied that it is justified by the evidence base (including the 7km zone which is broader than those used elsewhere but justified by local factors).

23. The main impact of these measures would be on the towns of Crowborough and Uckfield and villages within the buffer zones. I have seen evidence that there is a reasonable expectation that suitable SANGs could be provided relating to the SDAs in the towns. There is a large supply of open spaces within the District, many under the ownership or management of town or parish councils. NE is confident that SANGs can be delivered. However, for windfall planning applications and smaller sites where SANGs cannot be provided on site there is the possibility that otherwise acceptable development might be delayed while suitable SANGs are identified and brought forward.

24. The CS does not refer to these measures in a policy but includes text suggested in the HRA in supporting justification. The Council has proposed a modification to the plan that would include a policy reference to them being taken forward in subsequent DPDs. The Strategic Sites DPD is not expected to be adopted until March 2014 and the Delivery and Site Allocations DPD in March 2015. To avoid otherwise acceptable development being delayed it is important that, with appropriate partners, the Council identifies suitable SANGs and develops an on-site management strategy for the Forest as soon as possible in accordance with the conclusions of the HRA. While accepting the general thrust of the Council's approach I propose to add a further modification to the policy to reflect this.

Development in the High Weald AONB

25. The CS proposes a SDA at Heathfield (SD11) which would take the form of an urban extension of around 160 dwellings but shown indicatively on the Key Diagram. It is possible that part of the SDA could be outside the AONB but the Council has assessed it on the basis that it is within its boundary and it is likely that a significant part of the development would fall within the designation.

26. PPS7 indicates that the conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies for AONBs. Major developments should not take place in these designated areas except in exceptional circumstances and should be subject to the most rigorous examination. They should be demonstrated to be in the public interest. The Council considers that in PPS7 terms the SDA would constitute a minor development. However, AONBs are areas of countryside and attractive landscape. In this context, a residential development of the scale proposed, considered by the Council to be a strategic provision, must be regarded as major. While the criteria for consideration of major development in para 22 of PPS7 are expressed in terms of applying to planning applications they must logically also relate to proposals in plans.

27. The AONB boundary has been tightly drawn around the town. The SDA has advantages in terms of its proximity to the town centre and has been identified through the SHLAA process as a result of which it has been selected over other sites identified as potentially suitable which are also all in the AONB. The Parish Council has expressed a preference for 140 dwellings and there is a need for more affordable housing. However, the evidence base has not demonstrated that the three criteria in para 22 have been addressed in a comprehensive and systematic way such that it would amount to the rigorous examination required. The Council could undertake this as part of a subsequent DPD and bring forward any appropriate proposals at that stage. I therefore propose a modification to this effect with any housing areas that are identified as a result of that process being additional to the overall District dwelling provision.

28. While not referred to in a policy, the CS identifies a contingency site at Crowborough in supporting text and on the Key Diagram, which is also in the AONB. For similar reasons to the above the AONB location has not been justified but in any event there is evidence that there is a reasonable prospect that the traffic implications of the scale of development proposed in Crowborough, which were the main reason for the contingency site, can be addressed. This area has not been included in the CS housing provision figures and therefore its deletion has no effect on them.

Conclusions

29. In the context of the above I have therefore proposed main modifications in the following areas:

- Clarify that the CS does not provide a demographic-based case for departing from housing provision in the SEP.
- Bring forward the end date of the plan to 2027 (with adjustments to the housing trajectory).
- Introduce a clear commitment to an early review of the CS when there is more clarity over a preferred solution to the Hailsham WWTWs issue, which will include a re-appraisal of housing requirements.
- Add reference to a strategy for the identification of SANGs etc.
- Add reference to further research into nitrogen deposition in Ashdown Forest in review of the CS.
- Deletion of SD11 in Heathfield but the Council to undertake a review of the development needs of the town and the opportunities within it in the context of national policy in PPS7 as part of a subsequent DPD. Any housing sites identified as a result of this would be in addition to the total provision made in the CS.
- Deletion of the contingency site at Crowborough.

30. The attached schedule of main modifications should be read in conjunction with the Council's modifications. On the face of it, as they mostly affect the rate of development rather than its overall scale they should not raise significant issues relating to the Sustainability Appraisal or HRA but the Council/NPA will wish to consider this further.

31. Notwithstanding that the Council/NPA may have views on these modifications I should be grateful if they could be checked from the point of view of the internal consistency of the document, on a without prejudice basis. I should also be grateful if you would let me know of any corrections that should be made in this regard so that they can be made prior to the consultation. The Council/NPA will be able to make any comments on the modifications when they are available for general consultation.

32. A 6-week consultation period is necessary on these and the Council's suggested modifications with the extent of consultation reflecting the Statement of Community Involvement. This should take place as soon as it can be arranged. Please let me know the dates for this when they are available. I should be grateful if you would ask consultees to confine any further comments solely to the modifications. This does not represent an opportunity to raise other matters which either were or could have been part of the earlier representations on the submitted plan.

M J Moore

Inspector