

Mid Sussex District Plan Examination

Inspector's comments and questions: site allocations and non-housing policies

Hearings scheduled to commence on 28 February 2017

Notes

The following comments and questions concern the parts of the plan which have not previously been covered by the Examination hearings. The subjects already considered in the housing hearings are set out in the Appendix to this note.

Hearings into housing matters were held on 29 and 30 November and 1 and 9 December 2016, and 12 and 13 January and 8 February 2017. I will send the Council a letter with my interim findings on the OAN and the housing requirement before the commencement of hearings into non-housing matters.

In the hearings commencing on 28 February it will not be necessary to consider policies for site allocations that already have planning permission, other than to ensure that the relevant policies are consistent with the extant planning permissions and with other policies in the Plan. These policies include Policy DP8, the strategic allocation to the east of Burgess Hill at Kings Way and Policy DP9a, the strategic allocation to the east of Pease Pottage.

I will not be considering sites that have not been allocated.

An agenda with approximate timings for the site allocations and non-housing hearings will be established when any statements have been received and the number and nature of participants is known.

Questions for Examination

Policy DP1: Sustainable Development in Mid Sussex

The National Planning Policy Framework states that the policies in paragraphs 18 to 219 of the Framework constitute the Government's view of what sustainable development means for the planning system. With that in mind it is not appropriate for the Plan to seek to define sustainable development in Mid Sussex in the more limited terms set out in Policy DP1. Nor would it be appropriate for the plan to set these out as an alternative to the economic, social and environmental roles established in the Framework. The policy as it stands should be removed because it is

not consistent with the Framework. However, would the Council prefer to include the bulleted lists as core objectives, for example in the Vision section?

Policy DP2: Sustainable Economic Development

Employment projections were considered in the Housing sessions and will not be re-visited. The employment element of the Burgess Hill Strategic Allocation will be considered under Policy DP9.

What is the status of the science and technology park referred to in Policy DP2? Is it an allocation, and if so, should it be the subject of a separate policy?

Policy DP3: Town Centre Development

What are the implications of this policy, and in particular the sequential approach, for any retail and central area uses proposed in Policy DP9?

Policy DP4: Village and Neighbourhood Centre Development

What is the reason for the difference in approach between village centres and small village centres?

Policy DP7: General Principles for Strategic Development at Burgess Hill

(a) Are the requirements of this policy consistent with the terms of the planning permission granted for site DP8, including any planning conditions and s106 obligations? (See also question under DP8, below)

(b) Given that site DP8 already has planning permission, should Policy DP7 be deleted and its requirements included in Policy DP9?

(c) In what way can the strategic developments at Burgess Hill directly contribute towards a better, more accessible town centre with a greater range of shops, more retail floorspace, and so on?

(d) What is the evidence to demonstrate that the Burgess Hill developments require contributions towards enhancing transport interchanges?

(e) What is the evidence to indicate that highway improvements outside the district elsewhere in East Sussex are required?

(f) How are the strategic developments expected to “support the delivery” of (i) the Green Circle and (ii) a multi-functional route between Burgess Hill and Haywards Heath? Who controls the land? Who would pay for the provision of these facilities? (See also Policy DP38)

(g) Why is it considered necessary to include a percentage for affordable housing here, if it is to be in accordance with Policy DP29 anyway?

(h) What is the evidence to demonstrate that no occupation should take place until “necessary improvements” are made at Goddards Green Waste Water Treatment Works? What are those improvements? Who would pay for them and how? What are the implications of this policy for the timing of delivery?

Policy DP8: Strategic Allocation to the east of Burgess Hill at Kings Way

Are the requirements of this policy consistent with the planning permission granted for this site, including any conditions and planning obligations?

Policy DP9: Strategic Allocation to the North and North-West of Burgess Hill

(a) What are the masterplanning steps that need to be taken to ensure the delivery of this site?

(b) Does the policy adequately address the on- and off-site infrastructure issues, having regard to the Infrastructure Delivery Plan?

(c) What are the potential infrastructure issues that could influence delivery, having regard to any allocation-wide phasing strategy?

(d) Is the requirement for 30ha of land for a business park south of the A2300 justified by the evidence?

(e) Does the policy deal appropriately with the provision of pitches for Gypsies and Travellers? See my comments in relation to Policies DP28 and DP31. Policy DP9 leaves uncertainty as to the number of pitches or amount of land required within the allocation, or any commensurate alternative provision.

Policy DP9A: Strategic Allocation to the East of Pease Pottage

Are the requirements of this policy consistent with the planning permission granted for this site, including any conditions and planning obligations?

Policy DP11: Preventing Coalescence

What kind of development does this policy have in mind? Is it actually necessary to include this policy, given the control over the countryside exercised by Policy DP10? For the same reason, why would it be necessary to identify local gaps?

Policy DP15: Ashdown Forest SPA

The issue of SANGs was discussed at the housing hearings. However, should there be / has there been an assessment of reasonable alternatives to the 7km zone of influence?

Have the Plan and the HRA taken an appropriate approach towards the impact of proposed development on the SPA and have legal requirements been met?

Policy DP18: Securing Infrastructure

This policy seeks tariff-style contributions in residential development. This is potentially contrary to both the CIL Regulations and Planning Practice Guidance. Once the CIL Regulations are in place, CIL will be the main source of funding for community infrastructure, with s106 limited generally to affordable housing and site-specific mitigation. This is adequately reflected in the supporting text, but the policy appears, in the way it is written, to say something different. The Regulations restrict the use of generic section 106 tariffs and contributions may be pooled from no more than 5 separate planning obligations for a specific item of infrastructure. Authorities who refer to generic types of infrastructure in their s106 agreements, rather than specific projects, will be unable to collect more than 5 contributions towards those generic funding pots. The wording of the policy needs to be modified to reflect this.

Policy DP 19: Transport

The policy states that development will “only” be permitted subject to the subsequent criteria. This is not a positively prepared policy and creates difficulties in the application of the detailed criteria. The introduction to the policy needs to be worded positively.

(a) There is a policy conflict between the first and second bullets (sustainable location of development / development facilitating and promoting the increased use of alternative means of transport) and the objectives of Policy DP12 to encourage rural economic development. The Plan needs to have regard to paragraph 29 of the Framework, which states that different policies and measures will be required in different communities, and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. New wording needs to be devised to recognise these different needs.

(b) Bullet 5 requires development to be "in accordance with parking standards", but such standards are not part of the plan and have not been examined, so it is not appropriate to make adherence to such standards a rigid policy requirement. Moreover the indication that residential development "in and close to" the town centres "will normally be expected" to make lower parking provision is vague and does not allow for local circumstances. What alternative wording would be appropriate? Should the bullet simply read "It provides adequate car parking for the proposed development"?

(c) In bullet 6, the requirement for a transport assessment or statement and a travel plan for all development would be disproportionate and onerous in respect of smaller scale development. Paragraph 36 of the Framework states that travel plans should be required for "all developments which generate significant amounts of movement". Different wording is required.

Policy DP20: Rights of Way and other Recreational Routes

What is meant by "a new resource"? How can this be worded to be clearer and more specific?

Policy DP21: Communication Infrastructure

This policy does not accord with the National Planning Policy Framework. The policy supports the electronic communications network "where existing infrastructure is demonstrated to be insufficient". There is no such test of sufficiency in the Framework, which says at paragraph 46 that local authorities should not question the need for the telecommunications system. This phrase should be deleted.

Policy DP22: Leisure and Cultural Facilities and Activities

The policy as it stands is too vague. The kinds of activity and use to which this policy relates should be set out in the explanatory text

for the sake of clarity. The Council are invited to suggest suitable words.

Policy DP23: Community Facilities and Local Services

The comment under DP22 also applies to DP23.

Policy DP24: Character and Design

The second bullet refers to "building frontages facing streets" but this is vague and could lead to blank frontages. It does not reflect the advice in the Framework (paragraph 69 bullet 1) which refers to "active street frontages". Active street frontages involve placing entrances and windows on to streets, to animate the street and provide natural surveillance. In addition, the policy does not make any reference to mixed use developments and strong neighbourhood centres, which are important elements of good urban design and are also referred to in the same part of the Framework. The policy wording should be amended to reflect this, **having regard to the contents of the Design chapter of the PPG.**

Policy DP24A: Housing Density

The policy is contradictory, because it begins "Residential development must" but later allows for exceptions.

This policy sets minimum density standards. The Framework does not recommend the adoption of minimum densities. It states that schemes should optimise the potential of the site to accommodate development, but it also states that policies should be based on an understanding and evaluation of the defining characteristics of the area, and that schemes should add to the overall quality of the area, establish a strong sense of place, respond to local character and history and reflect the identity of local surroundings. The adoption of blanket standards for density across the District pays no attention to local character or the identity of local surroundings. It therefore conflicts with the Framework and with bullet 3 of Policy DP24. It will be important to have regard to the characteristics of the area and its surroundings when considering the appropriate design for *each site*. (Also, the last two paragraphs of the policy are not policy matters but explanatory material.)

The Council should delete this policy and include an additional bullet in Policy DP24 which reads "optimises the potential of the site to accommodate development". **It should also consider whether density policy should be developed for specific sites or locations**

which better reflects the advice in paragraphs 47 and 59 of the Framework as well as the Design chapter in the PPG.

Policy DP26: Accessibility

(a) What evidence does the Council have about characteristics in its particular area to support its policy that the more onerous Building Regulations Approved Document M Requirement M4(2) must be applied to all dwellings, as opposed to standard M4(1)?

(b) What evidence does the Council have that Requirement M4(3) should be applied to 5% of affordable dwellings?

Policy DP27: Noise, Air and Light Pollution

Should this policy have thresholds and metrics for the noise environment above which residential development should not be permitted? Where would officers and decision-makers look, in order to help them evaluate whether noise sensitive development could be permitted in environments subject to noise?

Policy DP28: Housing Mix

(a) The policy requires the provision of permanent pitches for Gypsies and Travellers and Travelling Showpeople on strategic sites in accordance with the accommodation assessment or such other evidence available at the time. However, Policy DP31 states that the current assessment does not identify any need for permanent pitches and plots for those still travelling, for the period up to 2031, but a need to accommodate 23 households for settled Gypsies and Travellers. This leaves uncertainty as to the number of pitches or amount of land required within any particular allocation. Why aren't the strategic allocation policies more specific about the number of pitches and the amount of land required in strategic allocations (or any commensurate provision elsewhere? That would then enable this bullet to be reduced in length (See also Policy DP9 and DP31.)

(b) How does this policy affect sites DP8 and DP9A, given that they have planning permission?

Policy DP29: Affordable Housing

The policy in Document BP1 is not currently being pursued by the Council, which has reverted for the time being to Policy DP29 in Document BP2 (Pre Submission Draft). Does Policy DP29 in Document BP2 take an appropriate approach towards the provision

of affordable housing having regard to the related issues of viability and market housing delivery.

Policy DP30: Rural Exception Sites

Paragraph 54 of the Framework states that local planning authorities should consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs in rural areas. Has this possibility been considered and should it be reflected in the policy?

Policy DP31: Gypsies, Travellers and Travelling Showpeople

(a) See questions in respect of Policy DP9 and DP28. Should the plan be specific in respect of the amount of land and number of pitches in strategic allocations?

(b) What evidence is there of the influence this policy would have on the viability of the strategic sites?

(c) How will the Council deal with individual planning applications for sites for Gypsies and Travellers where the need is not evidenced by the Mid Sussex Gypsy and Traveller Accommodation Assessment?

(d) What is the anticipated timing of the Traveller Sites Allocations DPD?

Policy DP33: Conservation Areas

The statutory duty under the Listed Buildings and Conservation Areas Act requires decision makers to consider the whether development would preserve or enhance the character or appearance of a conservation area. The character of an area can be derived not only from the appearance of its buildings, streets and spaces but from the activities carried on therein. This aspect of character appears to have been overlooked in Policy DP32. Should it be added to the Policy?

Policy DP35: Archaeological Sites

(a) This policy is not clear as to its approach to scheduled archaeological sites such as Scheduled Ancient Monuments, and other archaeological sites of greater and lesser importance.

(b) The policy appears to aim to preserve all sites of archaeological interest. In this, it does not appear to reflect paragraph 135 of the

Framework in respect of non-designated archaeological sites; the significance of the remains needs to be considered and the effect of any proposal on the significance should be taken into account in determining the application. A balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

(c) The policy is not clear enough as to the stages that should be gone through, including desktop assessment; then if necessary on site evaluation; then if necessary a full archaeological investigation followed by analysis and publication. Sometimes it is more appropriate for archaeological sites to be "preserved by record".

The Council are invited to reconsider the wording of this policy.

Policy DP36: Trees, Woodland and Hedgerows

(a) What evidence supports the buffer of 15 metres between ancient woodland and the development boundary?

(b) This policy gives prominence to protecting existing trees in new development. In doing so it does not properly recognise the importance of new well-designed structural landscaping in strategic developments to complement and enhance the overall development layout, and to ensure the long term survival of such landscaping into the future. This is as, if not more, important in the long term than the protection of existing trees, because such landscaping if properly planned it will long outlive what is already on the site. Paragraph 114 says green infrastructure should be planned positively. Bullet point 4 does not adequately deal with this issue and neither do Policies DP37 and DP38. It is possible that bullet 2 of DP38 is getting at this, but it is far from clear. This is not just about tree protection, biodiversity or the provision of "multi-functional greenspace". The Council are invited to produce an addition to this policy to emphasise the importance of creating good structural landscaping in new development.

Policy DP38: Green Infrastructure

(a) This policy lacks clarity. It is too vague and general, and overlaps with other policies including those dealing with biodiversity, leisure and cultural facilities, coalescence, rights of way and design. It is not clear how it would be applied in practical terms to proposals for development, or how the aspirations in the first four bullets would be funded and implemented. Moreover it does not deal properly with the importance of structural landscaping as an integral part of the design of new development (see DP36,

comment (b) above), and it does not take into account the question of local greenspace designation referred to in paragraphs 76 and 77 of the Framework. The Council should delete this policy and deal with the relevant issues more explicitly and with greater clarity against the relevant policies in the plan.

(b) What is the justification for the Green Circle around Burgess Hill? Is it all on land within the control of the Council and developers? If not, how is it to be implemented? The designation should not be extended to private land that is not part of any development proposal.

Policy DP39: Sustainable Design and Construction

How does this policy relate to the Building Regulations in respect of construction and water consumption? Are these elements necessary? (See also Policy DP42.)

Policy DP40: Renewable Energy Schemes

As regards wind power, this policy does not appear to reflect ministerial policy as set out in the Written Ministerial Statement of 18 June 2015. The Council are invited to amend the policy to take the WMS into account.

Policy DP42: Water Infrastructure and the Water Environment

How does this relate to the Building Regulations, in respect of its reference to water consumption? Is it necessary? (See also Policy DP39)

Jonathan Bore
9 February 2017

APPENDIX

Matters already covered during the housing hearings

- The housing requirement and its various components
- Objectively assessed need for housing
- Unmet housing need in nearby authorities
- Broad environmental and infrastructure constraints to housing delivery
- Duty to Co-operate
- Habitat Regulations Assessment (only partially discussed – this subject will be returned to in the hearings commencing 28 February)
- Strategic Housing Land Availability Assessment
- Sustainability Appraisal
- 5 year housing land supply
- Projected economic growth
- Settlement hierarchy
- Role of neighbourhood plans