

4/14982

**MID SUSSEX DISTRICT PLAN EXAMINATION: PUBLIC HEARINGS BEGINNING ON 28th FEBRUARY 2017**

**Campaign to Protect Rural England, Sussex Branch CIO (CPRESx) submissions re Part 2 hearing issues.**

This submission follows the order of the Part 2 issues paper issued by the Inspector, Mr Bore, dated 26th January 2017, and the questions asked by the Inspector in that issues paper.

**There are a number of questions asked by the Inspector on which we do not wish to offer comment in this submission, but on which CPRESx may wish to make oral representations at the hearings depending on the responses from the Council to the Inspector's questions.**

<b>DP1</b>	<b>Sustainable Development in Mid Sussex</b>
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No comment.

<b>DP2</b>	<b>Sustainable Economic Development</b>
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No comment.

<b>DP3</b>	<b>Town Centre Development</b>
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No comment.

<b>DP4</b>	<b>Village and Neighbourhood Centre Development</b>
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No comment.

<b>DP7</b>	<b>General Principles for Strategic Development at Burgess Hill</b>
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No comment. But please see our comments at DP38 re the Burgess Hill Green Circle.

<b>DP8</b>	<b>Strategic Allocation to the east of Burgess Hill at Kings Way</b>
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No comment.

<b>DP9</b>	<b>Strategic Allocation to the North and North-West of Burgess Hill</b>
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No comment.

<b>DP9A</b>	<b>Strategic Allocation to the East of Pease Pottage</b>
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No further comment.

<b>DP11</b>	<b>Preventing Coalescence</b>
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CPRESx strongly supports the existence within the Plan of a specific policy that aims specifically to preclude the risk that individual village communities, each with its separate history and characteristics within the district, would lose their separate identity. DP10 does not have that specific protective purpose. The risk of inappropriate coalescence is exacerbated in the case of Mid Sussex by the extent to which it is acknowledged by the Council that much (we say too much) future housing growth within the District is going to have to be on greenfield sites.

The potential for such harm exists both through the pressure for sprawling extensions of the larger towns into the countryside (as, for example, is a danger in the case of the northwards expansion of Haywards Heath towards Lindfield and Cuckfield – both of which villages are sufficiently significant and distinctive as to include conservation areas), and through parish built-up boundary extensions.

CPRESx’s experience is that the existence of a policy that protects the separate identity of individual villages is particularly appreciated and valued by local communities. We cite as an example widespread community involvement in opposing two applications that would have seen the serious erosion of the local gap between the villages of Hassocks and Hurstpierpoint.

<b>DP15</b>	<b>Ashdown Forest SPA</b>
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Whilst the issue of SANGS was raised at previous hearings, the Council has not offered any meaningful response to CPRESx’s challenge as to the woeful lack of any current, robust evidence to support the soundness of any aspect of DP15. Its only reply, through its Counsel, has been to say that it has not addressed what the implications of its DP15 policy might be if its housing target were set at a level higher than 800 dpa, which does not begin to answer CPRESx’s points. The whole issue of the Council’s inadequate and unevicenced response to the requirements of the Habitats Regulations is one that goes to the heart of the soundness of draft policy DP15. It requires a full response from the Council at the forthcoming hearings.

Indeed, until robust current evidence can be demonstrated to exist as to the nature and extent of harm to the sites from new development, and as to the effectiveness of potential avoidance measures, it isn’t possible to undertake a valid exercise of determining what the most effective strategy might be.

In fact, as part of its representations to the Council on the various publicly consulted-on iterations of its draft Plan CPRESx has pointed out that MSDC has failed to demonstrate that it has considered alternatives to its DP15 Policy as required by NPPF para 182. For instance, in our representation letter dated 12<sup>th</sup> October 2015, CPRESx included the following:

*“The Sustainability Appraisal Addendum only considers zonal restrictions within Mid Sussex on new development with the aim of “mitigating” the harm of increasing visitor numbers attributable to future new local housing. Proposed DP15 policy amounts to one of allowing unrestricted levels of new development within the zone of influence around the sites (beyond 400m) so long as sufficient compensatory*

*SANGS are in place. The Council has a duty to consider all reasonable alternatives. Consideration only of zonal mitigation, backed by SANGS, rather than other potentially more effective avoidance measures is unjustified. [Note the statement by Richards LJ at para 48 of the Court of Appeal judgment in Ashdown Forest Economic Development LLP v Wealden DC that “I do not accept that anything turns on the advice of Natural England that any net increase in dwelling numbers within a 7 km zone would “require” the provision of SANGS. In my view, this cannot be read as advice that the 7 km zone was the only option available.” The Wealden decision does not endorse the principle of a zonal or SANGS-based policy.] The Council has not considered, as it should have done, other reasonable, viable alternative non-zonal avoidance measures to eliminate the risk of harm to the sites, nor any explanation for excluding other options. There has, for example, been no consideration at all as to whether there is a limit on visitor growth that is compatible with protection of the EU sites and of capping the aggregate amount of development within a zone beyond 400 metres of the EU sites’ boundaries at a level which would not result in harm to the sites; no reason is given for not doing so ....”.*

It remains CPRESx’s opinion that the Council has failed to consider not only whether policy DP15 actually achieves the statutory purpose for which it is required of avoiding harm to the integrity of the two Ashdown Forest EU protected sites – by its own admission it does not - but also whether there is a more appropriate and effective policy to ensure the avoidance of such harm than that of allowing unrestricted levels of development around the sites (which is what DP15 allows) subject only to securing the provision of an appropriate amount of SANGS.

CPRESx notes that Wealden DC still takes the position that it still lacks sufficient evidence as to the potential harm to the same EU sites to be able to finalise an Ashdown Forest policy of its own. This fact reinforces our own opinion that Mid Sussex has formulated its policy on the flimsiest of evidence that is out of date in any case.

If it were determined on proper comparative analysis that a zonal approach were in some manner appropriate, CPRESx does consider that evidence exists in the form of the 2008 visitor survey that a 7km zone would be likely to be an appropriate zone to define the area from which material visitor numbers could cause harm to the SPA (and potentially the SAC) and hence within which potential restrictions on development should be considered.

CPRESx urges the Inspector to re-read section 5 of our 7<sup>th</sup> November 2016 submission (1/14982) for an overall summary of the reasons why CPRESx believes DP15 to be unsound. Nothing said since by MSDC in the course of the hearings supports their claim that DP15 is robustly evidenced.

<b>DP18</b>	<b>Securing Infrastructure</b>
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No comment.

<b>DP19</b>	<b>Transport</b>
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Re (a), we do not consider that the first two bullets of the policy in DP19 (to which CPRESx has no objection) would be in conflict with DP12 if the opening part of DP19 were positively expressed by deleting the word “only”.

We await with interest proposals for language (which we assume that the Council will draft) to address the point in NPPF para 29 to which reference is made by the Inspector.

Re (b), in CPRESx’s view the last sentence of bullet 5 is preferable to the alternative suggested in the Inspector’s paper. The use of the word “normally” provides a sufficient measure of flexibility in a

policy intentionally designed to encourage use of more sustainable modes of transport than private cars.

Re (c), no comment.

The Jubb traffic reports should form part of the named evidence base for transport planning affecting the East Grinstead area.

<b>DP20</b>	<b>Rights of Way and other Recreational Routes</b>
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Is there a need to do more than replace the word “resource” with “route”?

<b>DP21</b>	<b>Communication Infrastructure</b>
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CPRESX would not oppose the deletion of the words “*where existing infrastructure is demonstrated to be insufficient*” from the end of the second paragraph of DP21.

<b>DP22</b>	<b>Leisure and Cultural Facilities and Activities</b>
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CPRESx is surprised at the Inspector’s comment. We would not support a change to this policy or its explanatory text that served, by excessive or exclusive specificity, to undermine the broad nature of the policy’s purpose.

<b>DP23</b>	<b>Community Facilities and Local Services</b>
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CPRESx is surprised at the Inspector’s comment. We would not support a change to this policy or its explanatory text that served, by excessive or exclusive specificity, to undermine the broad nature of the policy’s purpose.

<b>DP24</b>	<b>Character and Design</b>
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It should be a priority for street frontages to be compatible with their immediate surroundings, and this is especially true in characterful village communities. We may wish to comment further once we have seen the Council’s response and draft wording proposal.

<b>DP24A</b>	<b>Housing Density</b>
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CPRESx supports the removal of minimum density requirements and the other change proposed by the Inspector. However we would favour the Plan making it clear that the degree of rurality of the surrounding area of a site should affect the appropriateness of building density and height.

<b>DP26</b>	<b>Accessibility</b>
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No comment.

<b>DP27</b>	<b>Noise, Air and Light Pollution</b>
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CPRESx questions whether it would be practical to incorporate within DP27 specific maximum decibel thresholds above which new residential or other noise sensitive development would not be permissible, if this is what is being asked: there are just too many variables in determining acceptability in a given location, which suggests that a case by case analysis and planning judgement is required.

CPRE nationally has pioneered within England the concept of tranquillity mapping. Its interactive tranquillity map is regularly used by planning authorities and other bodies as a tool to guide them in reaching sound planning decisions. See <http://www.cpre.org.uk/what-we-do/countryside/tranquil-places>.

<b>DP28</b>	<b>Housing Mix</b>
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No comment.

<b>DP29</b>	<b>Affordable Housing</b>
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The Inspector's comments are noted, and we await further information.

<b>DP30</b>	<b>Rural Exception Sites</b>
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Well planned small scale schemes of affordable homes can be of great value to smaller rural communities where a local need often exists to keep viable communities together and the affordability gap tends to be greater. Their sustainability is often justified by ensuring local villagers can remain in the local area maintain a local labour force. In CPRESx's opinion, a main advantage of exception sites is that lower land prices should be achievable, providing a form of subsidy for the provision of housing for local need that can be challenging in some locations.

So CPRESX supports the Council's aim of securing 100% affordable homes on rural exception sites wherever this can be achieved and notes that the South Downs National Park Authority intends a similar policy. The Council has had past success in promoting 100% affordable housing schemes (e.g. Hastoe housing scheme in Crawley Down).

CPRESx does recognise that there is some evidence that a cross-subsidy resulting from a small number of market homes on exception sites could occasionally provide the only means for the Council to deliver rural affordable homes. Each case should be judged on its merits and care needs to be taken to ensure that the potential to provide market housing on an exception site does not increase its value, thereby undermining its potential to provide affordable homes and undermining support from the community. The Council should be particularly wary of allowing market housing within affordable home schemes on sites within the High Weald AONB which (but for this policy) would not be appropriate to approve for development, and should consider seeking Designated Protected Area approval for AONB sites and taking advantage of the recent relaxation of the limitations applicable to grant funded shared ownership schemes to facilitate the funding of

affordable housing schemes (see <https://www.gov.uk/government/publications/designated-protected-areas>) before accepting market housing within the scheme.

Allowing market housing within a small scale affordable scheme should be an exceptional event. CPRESx suggests the following assessment criteria:

- schemes for fewer than, say, 10 homes should not include any market element;
- where a local rural affordable housing need is identified, MSDC should actively seek interest from local independent building companies, especially those with experience in building social housing;
- permission should only be considered if the Council is satisfied on robust evidence and after community engagement that needed affordable homes within a rural location cannot viably be delivered without introducing a market housing element;
- the market housing element should represent the minimum proportion needed to ensure the viability of the affordable homes scheme and does not result in the overall proposal being disproportionate in scale for its proposed location.

To facilitate the purpose of allowing, by exception, development benefitting local communities in rural locations that would otherwise not be permitted, CPRESx would want to see the Council impose conditions so far as it legitimately can:

- affordable homes available on a rented basis must offer long term secure tenure for local people;
- shared ownership homes should require resale of the property back to the original home provider;
- other affordable homes in rural areas should continue to be excluded from any right to buy type schemes that would enable on-sale to outsiders;
- homeowners should not be free to rent out their homes e.g. as holiday homes; and
- any market housing should not be capable of being sold to outsiders as second homes as these tend to price local people out of the local market.

To open up rural exception sites to market housing would undermine the basis on which the Council's seeks to regulate new countryside development set out in proposed policy DP13.

<b>DP31</b>	<b>Gypsies, Travellers and Travelling Showpeople</b>
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No comment.

<b>DP33</b>	<b>Conservation Areas</b>
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The character of a conservation area (and its appearance) derive from a variety of factors specific to the conservation area concerned, of which activities carried on within the conservation area is one potentially relevant factor. CPRESx does not read draft policy DP33 as seeking to list out all the specific factors to which the Council would need to pay attention in considering the impact of a given application on the conservation area. Nor would such a list be desirable.

<b>DP35</b>	<b>Archaeological Sites</b>
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CPRESx would welcome additional clarity as to how the significance of sites containing archaeological remains should be evaluated and when they should be preserved on site or by record. We look forward to seeing any further policy wording proposals that the Council may proffer for consideration.

<b>DP36</b>	<b>Trees, Woodland and Hedgerows</b>
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Re (a) the 15m minimum buffer zone for ancient woodlands represents soundly evidenced policy. Source: Natural England’s standing advice for ancient woodland and veteran trees: see [http://www.forestry.gov.uk/pdf/AncientWoodsSA\\_v7FINALPUBLISHED14Apr3.pdf/\\$FILE/AncientWoodsSA\\_v7FINALPUBLISHED14Apr3.pdf](http://www.forestry.gov.uk/pdf/AncientWoodsSA_v7FINALPUBLISHED14Apr3.pdf/$FILE/AncientWoodsSA_v7FINALPUBLISHED14Apr3.pdf) (2014) and para 6.4 in particular. That standing guidance given specific Government recognition: see <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>.

The important role played by ancient woodlands and valued trees in providing social and economic benefits, while still meeting the development needs of society, is highlighted at <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/POST-PN-465> in a 2014 Parliamentary Research Note. We would challenge any assumption that existing woodlands or trees are of lower environmental or social value than newly designed structural landscapes.

Re (b), CPRESx will comment when the new wording requested by the Inspector is available.

<b>DP38</b>	<b>Green Infrastructure</b>
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Re (a), CPRESx would be concerned at the deletion of this proposed policy unless its objectives were suitably and sufficiently addressed by additional provisions in other policies within the Plan. As currently drafted we do not consider that other proposed policies do adequately address even the minimum expectations of NPPF paras 99 and 114. Insofar as the Council aims for sensible higher standards that do not throttle otherwise sustainable development proposals, then we consider that those aims should be supported in the plan making process.

Also re (a), CPRESx supports the Inspector’s suggestion that the Plan should record the objectives of NPPF para 76 – 78 re local green spaces, and invites the Council to consider designating the Burgess Hill Green Circle as such a space on account of its recreational and wildlife corridor value in an area of increasing urbanisation.

Re (b) (and the Inspector’s comment re DP7), for background information on the Burgess hill Green Circle and its purpose CPRESx refers the Inspector to the Burgess Hill Town Council website at <http://www.burgesshill.gov.uk/greencircle>. The Green Circle (including the nature reserve within it) plays a very important role in securing biodiversity, as well as recreational opportunities, for the increasingly urbanised area of Burgess Hill and Hurstpierpoint. CPRESx would oppose any changes to the draft Plan that watered down policies which aim to ensure its preservation and its further enhancement opportunity as part of the Northern Arc project. Any such watering down would be incompatible with the NPPF objectives of using development as an opportunity to enhance biodiversity, and hence unsound.

<b>DP39</b>	<b>Sustainable Design and Construction</b>
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CPRESx would not support the deletion of this policy which offers a distinct framework to support an important aspect of sustainable development.

<b>DP40</b>	<b>Renewable Energy Schemes</b>
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CPRESx will comment on this policy when revised draft wording is made available.

<b>DP42</b>	<b>Water Infrastructure and the Water Environment</b>
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CPRESx would not support the deletion of this policy which offers a distinct framework to support an important aspect of sustainable development.

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**This submission has been prepared on behalf of the Campaign to Protect Rural England,  
Sussex Branch CIO**

**10 February 2017**