
Examination Statement - Housing

Mid Sussex District Plan 2014-2031

On behalf of

Linden Ltd

November 2016

Examination Statement on Housing Matters

For the

Examination into the Soundness of the Mid Sussex District Plan 2014-2031

On Behalf of

Linden Ltd

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1.0 INTRODUCTION

- 1.1. This statement has been prepared by Barton Willmore LLP on behalf of Linden Ltd, who has land interests at East Grinstead, and on which we have made separate representations throughout the preparation of the District Plan. Notwithstanding our Client's land interests, these representations have been prepared having had regard to Government guidance as set out in the National Planning Policy Framework (NPPF, March 2013) and relevant guidance as set out in the National Planning Practice Guidance (PPG).
- 1.2. Linden Ltd is a member of the Mid Sussex Developers Forum, hereafter referred to as 'the Forum' and support the points raised in the Statement submitted on behalf of the Forum. This Statement therefore does not seek to repeat those submissions made on behalf of the Forum and consequently focusses principally on questions 8.1, 8.3, 8.4 and 9.1.
- 1.3. These representations respond to the Inspector's questions as identified above and have been considered in the context of the tests of "Soundness" as set out in the NPPF (para 182) which requires that a Plan be:
- **Positively Prepared** – the plan should be prepared based on a strategy that meets objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where reasonable;
 - **Justified** – the plan should be the most appropriate strategy based on proportionate evidence;
 - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
 - **Consistent with National Policy** – the plan should enable the delivery of sustainable development in accordance with the NPPF.

2.0. SELECTION PAPER AND THE STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT (SHLAA) SOUND?

- 2.1. In short, no. We have considerable concerns relating to the methodologies used in both the SHLAA and the Strategic Site Selection Paper. These relate both to the criteria used by the Council in screening out sites from further consideration and the subsequent judgements (particularly within the SHLAA) in relation to the "deliverability" and "developability" of the site. We conclude that this evidence is not robust, and therefore not "sound".

- 2.2. Our concerns are compounded further in the LPA's present over-reliance (deferment) to subsequent Neighbourhood Plans, for which the SHLAA will inevitably be used to inform further subsequent site considerations. In its present form, the SHLAA is overly negative, and has resulted in many "suitable" sites being incorrectly discounted from the outset.
- 2.3. Planning Practice Guidance (PPG) and other best practice is clear that in preparing such evidence, LPAs should be taking a comprehensive and pro-active approach to identify all potential sites that could help to meet future needs. Furthermore, methodologies should avoid screening out sites from further consideration due to applying more local, secondary considerations.
- 2.4. In this context, having reviewed both the approved methodology (Feb 2015) and the Revised SHLAA (April 2016), we are concerned that the LPA's approach is flawed and unsound. Figure 2 of the SHLAA methodology details those constraints that would lead to a site being excluded from further assessment.
- 2.5. In the consideration of East Grinstead – the 2nd largest settlement in the District, and heavily constrained to the north (Tandridge, Green Belt), to the east/south (AONB) – it is clear that the only feasible option for strategic growth is to the (undesignated land) south west/west. And yet the SHLAA largely discounts any such sites as offering future potential to meet present/future strategic housing needs.
- 2.6. It is considered that the LPA has been too hasty in applying the secondary considerations at such an early stage, especially in a (Nationally and Regionally) constrained settlement such as East Grinstead. In doing so, the LPA has consequently ruled out the potential contribution of extensions to settlements in areas with the potential to deliver genuine sustainable development.
- 2.7. Of note, it excludes those sites wholly outside and unrelated to existing settlements unless they are of a scale that would result in a self-sufficient community (the degree of self-containment etc is not specified), would deliver 100% affordable housing or there are special circumstances as set out in the NPPF. It fails to define "wholly outside" or "unrelated" – even when sites physically adjoin the existing built-up area of a Town (ie. East Grinstead).
- 2.8. The SHLAA has been overly restrictive and too reliant on existing data sources and sites submitted to the Council identifying sites to assess. In our opinion all sites that are adjacent to settlements should have been assessed even if it was found they were unsuitable. However, there are a number of sites that have not been assessed at all despite being well related to settlements.

- 2.9. A number of sites have been highlighted as unsuitable due to existing policies constraints, potential access issues or landscape sensitivity where there is potential for this to be mitigated. The Council has also attributed too much weight to local and secondary designations.
- 2.10. This seems insufficient to exclude sites from further consideration. The PPG states that:
- Where constraints have been identified, the assessment should consider what action would be needed to remove them (along with when and how this could be undertaken and the likelihood of sites/broad locations being delivered). Actions might include the need for investment in new infrastructure, dealing with fragmented land ownership, environmental improvement, or a need to review development plan policy, which is currently constraining development.**
- 2.11. This is particularly true in respect of East Grinstead, and the approach adopted with regard to "highway capacity". It is widely acknowledged that the Town suffers from peak hour congestion, albeit the SHLAA continually refers to a "current ceiling estimate" (of 190 homes). Notwithstanding the incorrect use of a "ceiling" (and irrespective of its number/value), it singularly fails to reflect the proposed infrastructure improvements available from well considered planned developments, which can overcome/mitigate its resultant impact, and even provide improvement of capacity for existing road users.
- 2.12. This is best illustrated in our recent S78 Inquiry, at which the LPA withdrew its highway Reason for Refusal (at the 11th hour), in the light of robust evidence and continual "no objection" from the County Highway Authority (both West Sussex and East Sussex). I refer to this simply to highlight that "solutions" as opposed to "problems" can be achieved, especially when working proactively with promoters. [NPPF, paras 186/187]
- 2.13. The restrictive approach taken in the SHLAA is also evident in the assessment of our Client's site in East Grinstead (Ref: EG/D/15), which concluded that the "*Development of this site in isolation as a 'stand-alone' site does not represent a natural or incremental extension to the built-up area and it is considered unsuitable for development.*"
- 2.14. This is despite the site physically and visually immediately adjoining the existing Town, and being less than 1km distance to the Town Centre. The Site is visually well contained in the landscape and would result in only localised impacts. The Council has been overly reliant upon the latest Review of Landscape and Visual Aspects of site Suitability undertaken by Land Use Consultants (LUC), in rejecting this Site from its initial assessment.
- 2.15. It is widely acknowledged that greenfield sites will be required to meet future housing needs, and that any such site will have a resultant visual impact – any greenfield site would do so.

3.0 QUESTION 8.3 - TO WHAT EXTENT IS THE SUSTAINABILITY APPRAISAL PREFERRED OPTION REFLECTED IN THE DISTRIBUTION OF STRATEGIC ALLOCATIONS AND THE OVERALL SPATIAL STRATEGY OF THE SUBMITTED PLAN?

SA vs The Spatial Strategy

- 3.1 Section 7 of the SA (June 2015), considered 4No. options for the distribution of development. Option C, focused development within or adjacent to the three towns (Burgess Hill, East Grinstead and Haywards Heath), but encouraged both larger villages and smaller villages to take growth to support the provision of additional services and meet local needs.
- 3.2 The supporting Settlement Sustainability Review identified 5No. categories of settlement. East Grinstead is identified as a "Category 1 Settlement" (the most sustainable) alongside Burgess Hill and Haywards Heath. Within the SA each settlement was appraised against the sustainability objectives in order to confirm the hierarchy, which it did.
- 3.3 The SA was updated in November 2015 and reviewed the approach to the principles of the distribution of development. It concluded that Option D was the most sustainable scenario. This was substantially the same as Option C (as referenced above), with the exception that it would also focus development at a strategic location to assist in meeting the District housing need.
- 3.4 The spatial strategy for development in the Submission Local Plan, seeks to distribute a significant proportion of development to Burgess Hill and for the remaining development to be delivered by the other Towns and Villages to support economic, social and infrastructure needs. The scale of growth at these settlements is to be guided by the settlement hierarchy (para 3.19).
- 3.5 Policy DP5: Housing, the policy vehicle for setting the spatial strategy for growth fails to direct housing in accordance with the settlement hierarchy and findings of the SA, which also sought to direct development to East Grinstead. Consequently the Plan is too reliant on a small number of allocations and Neighbourhood Plans. This has in part been caused by the arbitrary threshold put in place by MSDC for strategic allocations (500 units +), which is far from being justified and results in an ineffective plan.
- 3.6 The resultant effect of which is the creation of a "policy vacuum" where the District Council has affectively abdicated responsibility in directing development to the most sustainable locations to Neighbourhood Plans. However, such an approach has already evidently failed at East Grinstead - in not ensuring Neighbourhood Plans look to meet their identified OAN (see HEDNA February 2015).

- 3.7 To ensure the positive and sustainable planning of development, in accordance with the findings of the SA, the Plan should be allocating growth to larger more sustainable locations in accordance with the identified settlement hierarchy. Without such direction in the Plan there is no certainty that eventual housing delivery will reflect the recommendations of the SA and the stated spatial strategy and will therefore be "Ineffective".
- 3.8 In addition, and in the absence of any guidance on where development outside the strategic allocations development should be allocated, it places an additional policy hurdle upon Neighbourhood Plans which have to demonstrate compliance with the Development Plan. This creates further ambiguity, and reinforces the fact that the Plan has not be "Positively Prepared".

Role of Neighbourhood Plans

- 3.9 As identified in the February 2015 HEDNA, East Grinstead has the third highest levels of need for housing in the District (just behind Burgess Hill and Haywards Heath), with an average OAN requirement of 2,032 dwellings. The recently "Made" Neighbourhood Plan identified sites for just 515 dwellings, not including those already consented (total 560 as April 2015).
- 3.10 Of the sites allocated, and following discussion on each site, there was no evidence presented (or available) that the sites were "deliverable". Moreover, there are significant known constraints to the delivery of the one major allocations for 200 dwellings at Imberhorne Lower School. This site relies on the relocation and consolidation of the school to release the site for development, which has significant planning, administrative and funding challenges. The majority of the remaining sites (allocated or permitted) fall below the threshold for affordable housing and/or fail to be of a size which would contribute towards the delivery of infrastructure improvements, such as much needed highway upgrades which are currently a constraint to future development.
- 3.11 Whilst the East Grinstead Neighbourhood Plan (EGNP) has had to be prepared in the context of the current 2004 Local Plan, which like the submission Plan does not direct development specifically towards East Grinstead owing to its age (some 10 yrs out of date), the above demonstrates that without the necessary direction in the Local Plan it does not follow that Neighbourhood Plans will take up the challenge to meet their identified needs as envisaged in the SA. Consequently the plan fails to be positively prepared.
- 3.12 Overall it is concluded that there is a disconnect between the SA and the spatial strategy for growth which as a result means there is no certainty about when and where housing needs will be met. Consequently this will make the plan "ineffective" almost from the outset.

4.0 QUESTION 8.4 - CAN THE ALLOCATION OF THE PEASE POTTAGE SITE BE RECONCILED WITH THE SA AND SHLAA FINDINGS? HOW IS THE SITE EXPECTED TO RELATE TO CRAWLEY IN TERMS OF CONNECTIVITY?

4.1 We have no comments to make in response to this question.

5.0 QUESTION 9.1 - WHAT ARE THE HOUSING DELIVERY TRAJECTORIES OVERALL AND A REASONABLE ESTIMATE FROM THE NEIGHBOURHOOD PLANS?

5.1 The submissions made on behalf of the Forum make comments on the reasonableness of the housing trajectory generally and will not be repeated here.

5.2 Whilst we do not object to communities being empowered to bring forward development through Neighbourhood Plans, for the reasons identified in response to question 8.3, we remain sceptical that this will happen in the absence of the Plan setting out housing targets for different settlements/Neighbourhood Plan areas.

5.3 The recently "Made" EGNP has (in theory) a time horizon until 2031. However, it was prepared pursuant to the 2004 Local Plan, and is readily acknowledged to not have regard to the present/future housing needs that will arise from the emerging District Local Plan. Therefore, the allocations contained therein deal more with "past" housing needs (and the recognised shortfall within East Grinstead), as opposed to the present/future housing requirements.

5.4 Moreover, and having participated at the EGNP Hearing, we are aware that the EGNP allocations are far from certain and indeed were recognised as not being confirmed "deliverable" (or viable). It is therefore far from robust in seeking to place any certainty or reliance upon such sites.

5.5 Other such "Made" Neighbourhood Plans (of which there are many in Mid Sussex) will have a similar time horizon and therefore there will be no immediate imperative to review plans to ensure housing needs are met or to address any shortfall in delivery and there is no certainty as to delivery.

6.0 CONCLUSIONS

Soundness of the Mid Sussex District Plan 2014-2031

6.1 In light of these representations, and the provisions of the NPPF (para 182), the Mid Sussex District Plan is currently "Unsound" for the following reasons:

- Not positively prepared – As set out in Forum representations, the Plan fails to meet its identified OAN and fails to adequately address neighbouring authorities' unmet housing need. It also does not positively plan for housing in failing to properly direct development towards the most sustainable settlements;
- Not justified – the Plan is neither the most appropriate strategy nor is it prepared based on adequate evidence;
- Not effective – the Plan does not look to positively direct development to the most suitable and sustainable locations and therefore fails to be effective in significantly boosting the supply of housing (NPPF, para 47); and
- Not consistent – the Plan fails to accord with the principles and requirements of the NPPF.

Recommendations

6.2 Having regard to the representations submitted on behalf of the Forum and those above, to address the failings of the Plan, the MSDC must:

- Prepare an NPPF compliant SHMA to form part of a more robust evidence base. Linden Ltd supports the recommendations of the Forum, which advocates an OAN of circa 1,000 dwellings per annum;
- Plan to meet this OAN in full.
- Prepare an SA, SHLAA and supporting evidence that meets National policy requirements and guidance which does not unnecessarily restrict development and taking into account unmet need from adjacent areas;
- Reduce reliance on Neighbourhood Plans as a vehicle to deliver housing and identify further sustainable sites for development to meet identified housing need;
- Provide guidance and/or minimum targets in Policy, for how identified housing needs should be met in Neighbourhood Plans having regard to the HEDNA (Feb 2015); and
- Consult on any further proposed changes to the plan. This must include the 'Further Focussed Modifications', as these were not consulted upon.

6.3 In order for these recommendations to be addressed to make the plan "Sound" it will be essential that the EIP be suspended so MSDC can undertake further work and re-consultation before reconvening the Examination.