
Note to the Mid Sussex District Plan Examination (January 2017)

a) Scope and Purpose

1. This note has been prepared on behalf of Mayfield Market Towns Limited (MMT) in respect of the current Examination of the Mid Sussex District Plan.
2. Examination on housing matters relating to the Mid Sussex District Plan 2014-2031 took place on 29th – 30th November, 1st December and 9th December 2016. The Hearings are due to re-open on the 12th/13th January 2017.
3. This note has been prepared by MMT to set out the principal issues raised in the Hearings to date and hopefully to assist the Inspector in moving forward with the Examination. This note is provided in a direct response to the Inspector requesting that submissions be made about the next steps.

b) Key Choices

4. It was evident from the Hearings that the housing figure for the District will need to increase above that currently proposed (800 dpa) even before taking into account any unmet needs of neighbouring authorities. In this context, it is important not to conflate the two. Any increase in the OAN in the range discussed so far at the examination is required to meet Mid Sussex's own needs and is separate from and additional to, for instance, the identified unmet need in Crawley or elsewhere.
5. The unmet needs of neighbouring authorities are acknowledged to be significant and the scale of those needs is known and documented, as is the inability of (for instance) Crawley, Brighton & Hove and Lewes to meet those needs. Without a mechanism and commitment to work to address those needs, it is very difficult to see how this Local Plan can meet the tests of NPPF paragraph 182 and be found sound.
6. This is particularly the case when the Examination has established that the Local Plan has not been positively prepared and is not supported by evidence that further development cannot be accepted without conflict with the policy approach set out in NPPF paragraph 14. The Council's evidence base identifies significant parts of the district which are relatively unconstrained.
7. In the light of these matters, it is our view that there are three choices:
 - i. conclude that the Plan is unsound and start the process again; or
 - ii. seek Modifications to the Plan sufficient to make it sound; or

- iii. allow the Plan to be adopted subject to a clear and meaningful commitment to conduct an early review, the purpose of which would be to work with neighbours to determine what extent of the unmet need can be met in Mid Sussex.
8. No party has promoted the first option. There is merit in having an adopted plan which gives effect to the allocations it does contain and which brings clarity, at least on some issues. However, if either options 2 or 3 are not pursued, a finding of unsoundness would be necessary.
9. The scale of Modifications necessary to render the Plan sound should not be under-estimated. There has been some suggestion that the Council could lift the OAN to say 1,000 – 1,100 and identify one or more strategic sites to respond to that change. However, there are two problems:
 - a. the examination does not have available to it sufficient evidence to identify preferred additional sites. The SA and SHLAA have been shown to be superficial and inconsistent and do not provide a safe basis for making strategic choices. Neither have other sites been exposed to consultation. A significant deferral would be necessary for the work to be done; but
 - b. even if it were done, the Plan would still not get close to addressing the scale of unmet need on its boundaries – the (planning) Duty to Cooperate set out at NPPF paragraph 179 – 181 would not have been met and the soundness test in paragraph 182 could not be met.
10. It is understood that the intention at the re-opened hearings next week to consider further the objectively assessed housing need and also, potentially, to consider specific sites and their deliverability. It is understood that further Examination on wider policies within the Plan is currently proposed to take place in February, with a date to be confirmed.
11. Whilst MMT has no agenda to defer the adoption of the Plan any longer than is necessary, we are very concerned that the current indicative timescale does not provide sufficient time to consider the fundamental issues fully, including the question of strategic sites. Proper assessment and consultation would be necessary.
12. The matters outstanding are so substantial that they cannot simply be addressed through a quick fix and the desire to adopt a Local Plan must not be at the expense of not addressing the issues, particularly given the adverse consequences that would follow from not meeting the needs.
 - c) **The Case for a Review**
13. We maintain the strong view that a review mechanism is required if the Plan is to be found sound. Without such a review the substantial unmet needs, will continue not to be addressed. The documented need is not just numbers – these are thousands of households. National policy expects their needs to be met.
14. Therefore, a review that critically includes a clear timeframe for this to take place is necessary to provide the impetus for MSDC to address the issue. Unmet need in the sub-region is substantial and the Housing Matters Statement published by the Council in November 2016 (MSDC2) in response to

the questions raised by the Inspector identifies this to be 38,558 dwellings over the period 2011 to 2031¹.

15. The importance of addressing unmet needs, and for there to be a clear incentive in place to, for example, ensure that the Council considers the issue as a matter of urgency has recently been recognised in the Examination of the Vale of White Horse Local Plan 2031. Here, Core Policy 2 of the emerging Local Plan (through a Main Modification) states that:

“To ensure Oxford’s unmet need is addressed, the Council will allocate sites to contribute towards Oxford’s unmet housing need within the Local Plan 2031: Part 2, to be submitted to the Secretary of State, within two years of adoption of the Local Plan 2031: Part 1. This will ensure that unmet need is considered and planned for in a timely manner and is tested through a robust plan-making process in accordance with national policy, national guidance...”

16. It is evident that the in the case of the Vale of White Horse, the Council are committed to submit the Part 2 Local Plan within two years of Part 1 being adopted (which is anticipated to be early 2017).
17. It is also significant to note that, when considering the original policy and modifications put forward by the Vale of White Horse Council with regard to dealing with unmet need, the Inspector’s Report (para. 28) stated that:

“...I share the concerns of some that neither policy CP2 as originally proposed, nor the initial modification to it suggested by the Council, would adequately incentivise the Vale to take the steps necessary to provide for all the housing needs from Oxford which it agrees should be accommodated in the district.” (our emphasis)

18. It is evident that the Inspector placed significant weight on the need for the Council to have an incentive to address the issue of unmet need. In the case of the Vale of White Horse, this was that if an adopted plan is not in place to cater for the housing needs within two years of the adoption of the Plan, the housing requirement for the Vale would be the Vale’s own OAN plus its agreed share of Oxford’s unmet needs. When considering this incentive, the Inspector stated (para. 28) that:

“The rendering out of date of relevant policies of the plan (in line with paragraph 49 of the NPPF) if a five year supply of housing could not be demonstrated to cater for both the Vale’s own and Oxford’s unmet housing needs will be a suitably strong, and thus sound, incentive for the Council to provide for its agreed share of Oxford’s housing needs as soon as possible.”

¹ Paragraph 4.1.8

19. It is recognised that the authorities in Oxfordshire are further advanced in the apportionment of the well documented unmet need than authorities in the West Sussex sub-region. However, when considering this particular matter, the Inspector's Report (para. 23) in response to the suggestion that the Vale of White Horse's Plan should be delayed until final agreement had been reached on the level of distribution of Oxford's unmet needs (identified to be circa 15,000 homes), noted that:

"...this would have run counter to the Government's aim (most recently expressed in the 21 July 2015, House of Commons Written Statement by the Minister of State for Housing and Planning) of getting local plans in place quickly, in particular to help accelerate house building over the next five years."

20. It is useful to understand the approach advocated by other Planning Inspectors when considering similar issues during recent Local Plan examinations. Research undertaken by the Planning Advisory Service² highlighted that since the introduction of the NPPF approximately one third of plans found sound have explicitly been on the basis that an early review should follow, often to address unmet needs.
21. In Dacorum the Core Strategy was found sound in 2013 subject to the commitment to undertake a partial review in 2017/2018.
22. Likewise, the Lichfield District Local Plan Strategy 2008-2029 (adopted February 2015) was found sound on the condition that the Council undertake an early review if further housing provision is found to be needed to address unmet needs of the neighbouring authorities of Birmingham or Tamworth.
23. Relevant extracts from these Plans are available at the following links:
- Dacorum Core Strategy 2006-2031 (adopted September 2013) ([available to view here](#))
 - Lichfield District Local Plan Strategy 2008-2029 (adopted February 2015) ([available to view here](#))
24. More recently, the Inspector's Interim Findings from the Examination of the Maidstone Borough Local Plan (dated 22 December 2016) specifically considered the issue of a local plan review. The Council in this instance proposed that a review of the Local Plan will 'commence' by 2022. However, in considering the approach of the Council, the Inspector's Interim Findings (para. 130) considered that such an approach provided no commitment to how quickly such a review would progress and no timetable for the necessary work. As a consequence, the Inspector recommended the following main modification:

² Source: <http://www.pas.gov.uk/documents/332612/0/use+of+early+review/ee92971a-960e-438d-9c22-9d6a5ffdc5be>

“The Local Plan should include a policy commitment to a review with a target adoption date by April 2021. That review process would accordingly need to start much earlier. The plan could then be rolled forward by 5 years from 2031 to 2036.” (our emphasis)

25. A copy of the Inspector’s Interim Findings from the Maidstone Examination is available to view [here](#).
26. It is in this in this context that the position in Mid Sussex also needs to be considered.
27. The suggestion that the Plan requires a review mechanism in order to make it sound would not be unique to Mid Sussex. Indeed, the Planning Practice Guidance (PPG) sets out that Local Plans may be found sound conditional upon a review in whole or part within five years of the date of adoption (para. 008, Reference ID: 12-008-20140306).
28. The PPG (para. 015, Reference ID: 12-015-20140306) also explains how authorities can consider following approaches established in Local Plan examinations in other areas provided they are both relevant and appropriate.
29. At a local level, the adopted Horsham District Planning Framework (para. 3.27) states that: *“the Council is committed to a review of the plan which will commence within the first three years from the adoption of the HDPF.”* The Inspector³ identified the requirement for the early review in order for the Plan to be found sound. It is understood that work on this review is due to commence early in 2017.
30. In Arun, the emerging Local Plan 2011-2031 (October 2014) contains a commitment (para. 12.1.66) that: *“to assess possible housing requirements arising through the Duty to Co-operate, the Council will review the Arun District Local Plan by 2020...”*
31. With regard to Brighton & Hove, the City Plan Part One (adopted March 2016), recognises that there is a duty to co-operate with the city’s neighbouring authorities. In particular, Paragraph 4.5 of the adopted City Plan states that:

“Brighton & Brighton & Hove’s strategic housing market and travel to work area extends westwards incorporating Adur District and parts of Worthing District; eastwards incorporating parts of Lewes and northwards to Mid Sussex, Horsham and Crawley. Many of these areas also face similar challenges in meeting housing requirements. Within Brighton & Hove, the council acknowledges that there is a significant housing shortfall against the objectively assessed housing requirement of 30,120 dwellings to 2030. In accordance with government guidance, the council will therefore continue to engage constructively, actively and on an ongoing basis with neighbouring authorities and public bodies with regard to strategic planning matters including the provision for housing over

³ Paragraph 15, Inspector’s Report to Horsham District Council (8th October 2015)

sub-regional areas. This will include seeking commitment from neighbouring authorities to participate in further sub-regional work such as building upon the Local Strategic Statement for the Coastal West Sussex and Greater Brighton Area and the sub-regional work of the Greater Brighton Economic Board. This will allow long-term opportunities to be explored for meeting unmet housing needs and the identification of delivery mechanisms including local plan reviews.”

32. In the case of Lewes District Local Plan, the plan was adopted in May 2016 with a review mechanism included. In particular, Spatial Policy 1 (‘Provision of housing and employment land’) states that:

“A review of Spatial Policies 1 and 2 will be undertaken by the District Council and National Park Authority on completion of cross-authority working to consider longer-term options for strategic development both within the Sussex Coast Housing Market Area and in adjoining areas and in adjoining areas if any of these options are demonstrated to be deliverable within Lewes District.”

33. The supporting text to this policy (para. 6.22) notes that:

“A Memorandum of Understanding (MoU) has been produced and signed by all the authorities within the Sussex Coast housing market area, as well as the West Sussex authorities of Crawley, Horsham and Mid Sussex. This commits the authorities to work together to explore longer-term solutions for housing delivery. If a longer-term potential solution which affects the plan area is agreed, the District Council and the National Park Authority are committed to a review of the Core Strategy if this is necessary to deliver it.”

34. The Local Plan goes on to note that the timetable for the cross-authority work is expected to be agreed in 2016. Direct discussions with Officers at Lewes District Council has indicated that no timetable (as yet) has been set and there is no timetable for that work. Timetables for joint working have consistently slipped.

35. These requirements create the opportunity for genuine joint working. Indeed, this work should already be in hand. However, as the examination heard, the duty to co-operate “*does not quite work like that*” in this part of Sussex and there is no evidence that the authorities are actually working together to find practical, deliverable solutions.

36. Against this background, it is considered that the proposed wording put forward by MMT to the Examination, which is supported by the Mid Sussex Developers Forum provides an appropriate proposal response that reflects the importance of the issue of dealing with unmet needs. This draft wording reads as follows:

1. The Localism Act 2011 places a “duty to co-operate” on local authorities and other specified organisations. The Mid Sussex District Plan should therefore be based on joint working and co-operation with neighbouring authorities to address larger than local issues. In particular, where it is reasonable to do so and consistent with achieving sustainable development, it should seek

to meet unmet housing needs arising from neighbouring authorities in the region, including but not limited to those arising from other authorities within the Northern West Sussex and Greater Brighton/ Coastal West Sussex sub-regional housing market areas. The District Plan has been adopted on the basis of meeting some unmet housing needs from the sub region.

2. The Council accepts that its District Plan, taken together with the development plans for adjoining districts in the relevant housing market areas, fails to meet all of the objectively assessed housing needs of those parts of the sub-region relevant to Mid Sussex. There is evidence that in addition to the housing sought to be delivered through various recently adopted development plans (for Brighton & Hove City Council, Lewes District Council, Adur District Council and Worthing Borough Council) a further 35,351 dwellings are required over the next 15 years if the housing needs of the sub-region are to be met in full.
 3. As part of its duty to continue to engage constructively, actively and on an ongoing basis with neighbouring authorities and public bodies with regard to strategic planning matters, including the provision for housing over sub-regional areas, Mid Sussex District Council is committed to working together with its neighbouring planning authorities to identify what proportion of the above unmet need can reasonably and sustainably be met within its administrative boundaries having regard to both its environmental capacity and the environmental capacity of its neighbouring authorities. As part of discharging this duty, Mid Sussex Council will complete an urgent partial review of its District Plan within 2 years of the adoption of this District Plan (date to be specified in the plan when its adoption date is known). This partial review will be undertaken in co-operation with all neighbouring authorities where there are relevant cross-boundary issues, including Horsham district.
 4. The purpose of the review will be to (a) assess what proportion of the overall unmet need can be satisfied within Mid-Sussex and (b) identify sufficient housing land to meet that need insofar as the need can be met within Mid Sussex consistent with approach required by paragraph 14 of the NPPF⁴.
37. Taking into account the requirement to address unmet need in accordance with the NPPF and PPG, we maintain that the above wording (or wording to similar effect) provides the most appropriate approach in addressing this issue whilst ensuring that a sound Plan can be adopted. The suggested timescale of two years is not unreasonable, and critically provides the important incentive, which was recognised by the Inspector for the Vale of White Horse Examination as imperative, for MSDC to address this important issue. Without such an incentive there is a clear danger authorities will continue to defer and avoid the necessary work. The commitment to an early review may create some uncertainty – but

⁴ The wording would clearly need to be amended in the event, for instance, that the Plan was modified to meet Crawley's unmet need. The two year period could also be adjusted to a limited extent and could be revised to refer to submission rather than completion or adoption

that is a consequence of local plans in the area not having been prepared sufficiently in accordance with the NPPF. A short period for review would obviously reduce the period of uncertainty.

38. Therefore, should the approach be to continue with the Examination, we strongly encourage the inclusion of a commitment to an early review that not only outlines the purpose of the review but sets out a timescale in order that these critical issues are genuinely and urgently addressed.