



Examination of the Mid Sussex District Plan 2021-2039

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Dear Mr Marsh

Mid Sussex District Plan 2021-2039: Stage 1 Findings

1. Firstly, I would like to thank you for the way in which your team, together with other participants have engaged and helped me with my examination of the Mid Sussex District Plan 2021-2039 (the Plan). I apologise for the delay in responding.
2. As you are aware I have been appointed by the Secretary of State to examine the Plan, not only in relation to whether it meets the tests of soundness, as set out in the September 2023 version of the National Planning Policy Framework (Framework) but also whether it is legally compliant.
3. In my initial letter of August 7, 2024, I set out that I would examine the Plan in two stages as there were some fundamental issues, including the Duty to Co-operate (DtC), that required testing before I could be confident that I could move to the Stage 2 hearings.
4. Following the end of the Stage 1 hearings I asked for various additional pieces of work to be provided to the examination. This included any detailed evidence in relation to the DtC which you had not previously submitted, such as copies of relevant agendas and minutes of meetings (AP0013). This was to ensure that you were given every opportunity to demonstrate that you had co-operated with the relevant prescribed bodies and complied with the DtC. I am now in receipt of this and the other additional work¹.

¹ Including the consultation responses to AP-018.

5. I am aware that no neighbouring authority nor any other prescribed body has suggested that Mid Sussex had not met the legal duty. I also note that signed Statements of Common Ground have been received relating to all the neighbouring Councils and some, although not all, of the prescribed bodies.
6. Nevertheless, in relation to the strategic matter of the unmet housing needs of neighbouring local planning authorities (LPAs), I have now concluded that the Council has not met the DtC, in its preparation of the Plan. A failure to meet the DtC is fatal to the progression of a Plan and cannot be rectified following submission.

Legislation

7. Section 33a of the Planning and Compulsory Purchase Act (P & CPA 2004) sets out the legal obligations on LPAs, amongst others, with regard to the DtC in relation to the planning of sustainable development.
8. As you are aware, as part of my examination of the Plan, I must be content that the LPA has complied with any duty imposed on the authority by S33a of the P & CPA 2004.
9. The DtC requires that local planning authorities must co-operate in maximising the effectiveness with which activities are undertaken.
10. It also requires every person, such as in this case, Mid Sussex District Council (MSDC), to engage constructively, actively and on an on-going basis in any process, by which means activities, including local plan preparation, is undertaken. This legislation has remained in force throughout the preparation of the plan. As such, MSDC must have complied with it. It also requires MSDC to have regard to the activities of others, as long as they relate to a relevant strategic matter.
11. A strategic matter is defined, amongst other matters, as a use of land that would have a significant impact on at least two planning areas.

12. Engagement requires *considering* agreeing joint approaches to undertaking activities. This includes the preparation of joint local development documents under section 28 of the PCP.
13. In undertaking the DtC, the Act requires that regard must be had to the guidance in complying with the DtC provided by the Secretary of State. This guidance is set out in the Framework and the Planning Practice Guidance (PPG).
14. Authorities are not obliged to accept needs from other areas where it can be demonstrated that it would have an adverse impact when assessed against policies in the Framework.
15. The PPG is explicit that inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates or do not rely on the inspector to direct them. It also reiterates that the DtC cannot be rectified post submission.

Plan Preparation

16. It is not clear when the review of the Plan began. In your Matter 1 hearing statement², the Plan review is reported as starting in 2020, yet the Council's most recent evidence has the process both beginning in July 2021³ and March 2022⁴. This lack of clarity is significant as the legislation requires ongoing engagement throughout the plan preparation process. As such, it is important to know when this is, given the importance of identifying the cross boundary matters which need addressing at the outset of the plan making process.
17. Notwithstanding the inconsistencies in your evidence, I have taken the July 2021 date set out in the chronology accompanying your response to Action Point 13 provided in November 2024, as the starting point for plan preparation. The preparation of the Plan ended at its submission of the Plan on July 10, 2024. Therefore, it is this

² MSDC Matter 1: Paragraph 1.5.

³ AP-013 Appendix E.

⁴ AP-013 Appendix A1 page A1-3

period which is relevant for my determining MSDC's compliance with the DtC.

Background and Context

18. A Duty to Co-operate Framework was produced in 2015⁵ and is considered by the Council to remain relevant to the Plan. However, this has not been updated nor has the Duty to Co-operate Protocol and Checklist been adhered to. Consequently, there is little direct evidence to demonstrate how co-operation has maximised the effectiveness of plan preparation.
19. There are a number of strategic matters such as transport, or habitat considerations where I am confident that, whilst there may be some soundness issues which require addressing, the DtC has been complied with. Similarly, whilst I note that the Council has not provided signed Statements of Common Grounds (SoCGs) with all of the prescribed bodies set out in legislation, I do not consider this to have been determinative in my judgment as to whether the Council has met the DtC.
20. However, the extensive unmet housing needs of neighbouring authorities has historically been a strategic issue in the sub-region that has required active, on-going and constructive engagement, and remains relevant to plan preparation.
21. This is clearly articulated in Policy DP5 of the adopted Mid Sussex District Plan 2014-2031⁶. The examining Inspector for that plan required the Council to undertake a prompt review of the Plan and to work under the 'Duty-to-Cooperate' with all other neighbouring local authorities on an ongoing basis to address the objectively assessed need for housing across the Housing Market Areas. As such, I am primarily concerned with how the Council has complied with the DtC in relation to housing.

⁵ DC2

⁶ BD1

Sub-regional Co-operation

22. There are two bodies in the wider sub-region with which the LPA could, theoretically, have worked, under the DtC, as a means of engaging with neighbouring local authorities. The issue here is whether the LPA did that, and if not, whether the necessary constructive, active and on-going engagement took place with neighbouring authorities in relation to local plan preparation.

West Sussex Greater Brighton Planning Board

23. Great onus is given to the West Sussex Greater Brighton Planning Board (WSGB) within the submission Plan. It is explicitly mentioned within the emerging Plan within the Background and DtC sections as an important strategic body within the wider sub-region. As written, it appears to be an active vehicle for navigating the DtC and is cited as an example of ‘ongoing work⁷’ and is extensively referenced and relied upon within SoCG with individual authorities as well as the Northern West Sussex SoCGs.

24. It was also cited in the DtC Compliance Statement⁸ as one of the formal groupings with which the Council has engaged. I was led to expect that a SoCG with the Board would be submitted to the examination. During the hearings I requested a paper setting out why this had not been provided, given the importance seemingly given to it within the Plan and the Council’s hearing statement. This detailed paper⁹ which was signed at officer level some five months after the submission of the Plan dispels the notion that the WSGB could have been a vehicle for cross boundary co-operation during most of the time when the Plan was being prepared. Moreover, it reported that in December 2023 the officers of the constituent authorities agreed that the group could not support the development of the current wave of local plans in the region¹⁰.

25. This is not surprising given that the last time the Board met was in March 2021¹¹. The Regulation 18 consultation took place over a year

⁷ DP1, pages 10, 11 and 23.

⁸ DC1, paragraph 4.

⁹ AP-011

¹⁰ AP-011 page 9, paragraph 43.

¹¹ AP-013 Appendix A3, page A3-9.

later in the following November 2022. Therefore, from March 2021 by which time your most recent evidence suggests Plan making had not even begun¹², the Board had not been an active group. As such, MSDC could not have engaged constructively, actively and on an ongoing basis with the WSGB in plan preparation. Consequently, it should not have been relied upon or prayed in aid to demonstrate the compliance of the Plan with the DtC in either the Regulation 18 or Regulation 19 plans or the evidence which has been provided to the examination.

26. My understanding is that work on future strategic planning issues has been '*paused*', albeit this has been for years rather than months, but nonetheless it has not been '*abandoned*' by the Board.

27. I am aware that West Sussex and Greater Brighton Planning Officers Group met a further three times during this period. However, no minutes¹³ have been provided to demonstrate how, or if at all, these meetings contributed to maximising the effectiveness of plan making with particular reference to the distribution of unmet housing needs.

Gatwick Diamond Board

28. The Council's Chronology of the DtC only mentions the Gatwick Diamond Board (GDB) twice: once in a DtC meeting in October 2023, prior to Scrutiny Committee's consideration of the consultation Plan and latterly after the Regulation 19 consultation had been completed. By this time there was little scope for any change to the strategy of the Plan. There is nothing within the agenda or minutes which have been provided to suggest that the Board played an active role in proactively considering unmet needs and the role of Mid Sussex's Plan.

Overall

29. Given the above, it is clear that neither of the two sub-regional bodies has played an active role in influencing plan preparation, including addressing unmet housing needs within the sub-region.

¹² AP-013 Appendix E, page 3.

¹³ Ditto, page A3-10.

30. As such, they have not been vehicles to maximise the effectiveness of Plan making. Put simply there has not been a sub-regional body which has taken a strategic overview to help distribute housing within the sub-region so the unmet needs of households can be addressed. However, this lack of active wider sub-regional bodies does not obviate the Council from its legal responsibilities in relation to the DtC. The question then, essentially, is what steps the LPA took to discharge those responsibilities directly with neighbouring local authorities. I turn now to consider this.

Co-operation with Neighbouring Local Authorities

Outset of plan preparation

31. The Council met with all neighbouring authorities in the autumn of September 2021, setting out their approach to its call for sites, its housing requirement, and accepted that unmet need from other authorities would be needed to be factored in. At face value the approach seemed consistent with the PPG as further individual meetings were to be scheduled in relation to the DtC and a consultation undertaken on the Site Selection Methodology to be used. This was to be amended on an iterative basis.

Rest of plan preparation to submission

32. There is little evidence to suggest that this active, constructive engagement continued on an on-going basis throughout plan preparation which I explore below.

33. I am aware that a considerable proportion of the SoCG were submitted well after the submission of the Plan and what could reasonably be considered to be in the spirit of the guidance set out in the PPG. Nonetheless, whilst the late production of SoCGs is indicative of the seriousness of the Council's approach to engaging with the DtC, it has not been determinative in my decision relating to its legal obligation.

Crawley

34. Crawley lies to the northwest of Mid- Sussex and together with Horsham and Mid Sussex form the Northern West Sussex Housing Market Area (NWSHMA). The Borough has long established difficulties in meeting its own needs due to the constraints of an intensely developed urban settlement with little opportunity for additional growth. Indeed, the Mid Sussex adopted Plan (BD1) attributes an additional housing requirement of 1,498 dwellings to help meet Crawley's unmet needs. Nonetheless, Crawley remains unable to meet all of its own needs. Crawley's local plan was adopted in 2024. This established that there was an outstanding need from 2023- 2040 for 7,505 dwellings which cannot be catered for within its own boundary. This situation is unlikely to change in the future.
35. Mid Sussex was formally approached in January 2020 for help in meeting Crawley's needs prior to the plan preparation beginning, and again in April 2023, well before the Regulation 19 draft of Mid Sussex's LP was finalised in November 2023, and the Regulation 19 consultation itself in January 2024. Consequently, the principle of it having substantial unmet needs has been known prior to and throughout the preparation of Mid Sussex's Plan and indeed is central to the review of the Plan required by Policy DP5 of the adopted Plan.
36. Your Council's response to both formal requests has been to state that it is committed to working with Crawley in a positive manner. However, the first letter stated that any consideration of unmet needs would have to be in the context of Mid Sussex reviewing its own plan and querying whether Crawley had exhausted all opportunities to increase capacity. The second set out how Mid Sussex had shared its Site Selection Methodology (SSM), held briefings to share the initial outcomes of the Site Selection Process, and commissioned an Urban Capacity Study. It also set out the extent of any surplus in capacity. However, it did not take a positive approach to addressing unmet needs, as it was *'not in a position to confirm the total*

*deliverable housing in the District and therefore the amount of housing it may be able to provide to meet unmet need*¹⁴.

37. Following this letter, there were further joint NWSHMA DtC meetings, which I address below, and which were primarily focused on procedural issues. However, there were no further individual meetings between the two Councils after May 2023 and submission in July 2024¹⁵. In the context of Crawley's demonstrable substantial unmet needs, and that no further allocations were brought forward after the Regulation 18 consultation in late 2022, it appears that Crawley's needs were, in effect, ignored in the absence of ongoing and constructive engagement.

38. A SoCG¹⁶ with Crawley was submitted to the examination over two months after the Plan had been submitted and I have not been provided with earlier iterations. This SoCG was provided well after what could be considered a reasonable delay, particularly as the consultation on the Regulation 19 version of the Plan, had taken place at the turn of the year, after which there was little opportunity to influence plan preparation. The SoCG refers to the historic work which has been undertaken prior to the commencement of work on the Plan and the wider NWSHMA¹⁷, which I consider below. A number of shared objectives are set out. It is agreed that a '*robust and appropriate SHMA has been completed for each local authority*', and that MSDC has shared and invited comments on the site selection process.

39. Nonetheless, I have interpreted the phrase '*that **each** considers that they are doing the maximum reasonable to meet the housing needs*', in the context of Crawley's Regulation 19 response to DPH1: Housing. Here Crawley set out a number of concerns relating to the submission Plan, including a recommendation that, '*all potential sources of housing supply which might contribute to meeting identified needs are proactively explored...*'¹⁸. This clearly suggests that Crawley did not consider that Mid Sussex was doing the

¹⁴ AP-013, Appendix 7, letter of 20 June 2023.

¹⁵ AP-013, Appendix E.

¹⁶ DC6

¹⁷ DC3 and DC4

¹⁸ Crawley Borough Response to Regulation 19 consultation.

maximum reasonable to meet the unmet housing needs which Policy DP5 envisaged and the DtC requires.

40. Moreover, the SoCG sets out that both authorities will engage with other DtC forums and references future work. Whilst this may be sensible, it is not relevant to the examination of the Plan as the DtC only relates to activity up to submission.
41. In sum, notwithstanding the examples of cross boundary work which have taken place, such as the co-operation relating to the allocation at Crabtree Park which falls on the boundary between Crawley and MSDC, and whose housing will contribute to MSDC's housing requirement, I am not convinced that Mid Sussex has engaged constructively, actively and on an ongoing basis during plan preparation to help Crawley with its extensive and widely anticipated, on-going unmet housing needs.
42. Indeed, the LPA has not committed to providing a definitive quantum of housing for Crawley's needs, instead relying on whatever is left once Mid Sussex's own needs have been provided for. This is the antithesis to the approach of the Framework which would require a planned, strategic approach to be taken to wider housing needs, which reflects the legislation underpinning the DtC, and is advocated in Policy DP5 of the adopted Plan.

Horsham

43. To the west of MSDC is Horsham. Historically, with Mid Sussex, it has met Crawley's unmet housing needs within the NWSHMA. Following Natural England's Position Statement, published in late 2021 there are unresolved issues, which do not form part of my examination, relating to water neutrality and housing provision. A small part of Mid Sussex's boundary with Horsham falls within the Water Neutrality Zone. However, Horsham is extensively affected, and its position is that it cannot meet its own housing needs in full or help meet Crawley's unmet needs.
44. This position would have been evident early in Mid Sussex's plan preparation and there may have been an opportunity for Mid Sussex to work constructively to address some of those needs. Indeed, in

August 2022 Horsham wrote to your Council suggesting that if the needs of the HMA could not be met that a further call for sites should be made and the methodology be reappraised¹⁹. I am aware whilst any site taken forward as a result of the Regulation 18 and Regulation 19 consultations were considered, no further sites were allocated throughout the plan preparation process.

45. Following a meeting in August 2023, it was not until November 2023 that Horsham formally requested the help of Mid Sussex to cater for the excess 2,275 homes for which it considers that it cannot identify sites without falling foul of the Habitat Regulations. However, by this time the strategy of the Plan had been set, albeit the Regulation 19 consultation had not begun.

46. I note that Mid Sussex did not formally respond to Horsham's request, sent in late November 2023 until early March 2024. This was over three months later and after your Regulation 19 consultation had been completed. By this time there was little opportunity to maximise the effectiveness of plan preparation.

47. Moreover, whilst the letter was full of goodwill and commitment to continuing engagement, citing Mid Sussex's sharing of its SSM and its maximisation of its housing supply, it did not provide any meaningful evidence of what, if anything, Mid Sussex could do to help Horsham. Rather it relied on the imprecise and vague approach to meeting unmet needs within the NWSHMA set out within the Housing SoCG which I consider below. As such, I do not consider that MSDC engaged in the active, constructive and ongoing way, as required by the legislation, so as to maximise the effectiveness of plan preparation.

Northern West Sussex Housing Market Area

48. The Northern West Sussex authorities of Horsham, Crawley and Mid Sussex have long been recognised as an established Housing Market Area (HMA)²⁰. They have a long history of working together with a wider remit than housing. However, my examination of the Plan and the DtC in relation to the planning of sustainable

¹⁹ AP-013- Appendix A2.

²⁰ Para 1.5, H1

development can only relate to the period between the commencement of work on the Plan and its submission in July 2024. A General SoCG²¹ was signed in July 2024 but received after submission of the Plan.

49. I appreciate that a joint Plan has not been taken forward. In common with my fellow inspectors who examined Crawley's Plan, I consider this to be reasonable in the circumstances of each of the three authorities starting their plan making at significantly different times.

50. Other than the Water Neutrality work²², much of the joint activity and evidence bases to which I have been referred, including the *At Crawley Study 2009*²³, predates the preparation of the current Plan and the present wider sub-regional issue of unmet housing need.

51. I also note that the three authorities reference working positively together as part of the WSGB and the GDB to demonstrate their compliance with the DtC. However, as already established, both the GDB and WSGB have had a diminished, or indeed no role during the time in which the Plan has been prepared.

52. The three authorities have also signed a specific SoCG relating to housing²⁴. Again, this leans heavily on historic joint evidence bases such as the Housing Market Appraisals (HMA) which confirm that the three local authorities make up the principle HMA for each authority. This SoCG makes explicit that the DtC remains relevant with an unmet housing need of 8,947 dwellings within the three authorities.

53. However, it does not set out in a convincing manner how their engagement increased the effectiveness of plan making, such as setting a definitive figure for, or even a range of, the quantum of housing which Mid Sussex should provide to contribute towards unmet needs.

54. The SoCG suggests that at the time of its signing, after the submission of the Plan, that Mid Sussex had a headroom of 1,208 dwellings. However, there is no consideration of how this surplus

²¹ DC3.

²² ENV13.

²³ O12.

²⁴ DC4.

would be distributed between the two LPAs. Nor has a fixed quantum of development which could be relied upon been set and an explanation of how it would relate to any annual requirement and subsequent monitoring. This is particularly important, given that the oversupply figure is also expected to contribute to the resilience of MSDC's own housing supply, to be drawn on by MSDC in the event that some of the sites within the Plan do not come forward²⁵.

55. This lack of clarity is pertinent as during the Plan's preparation the surplus has varied from 302 dwellings at the Regulation 18 consultation (which was purely to ensure resilience for MSDC), to 996 dwellings in relation to the Regulation 19 plan, and finally after submission, within the agreed SoCG, the Councils suggest a headroom of 1,208 dwellings. All these changes have taken place without any additional allocations. Consequently, there must be a significant question mark as to how reliable any potential contribution would be in meeting unmet needs. Moreover, there is an unmet need of 59 pitches from Horsham of Gypsy and Traveller accommodation.
56. Meaningful co-operation has been couched in terms of the difficulties in taking on unmet needs. Much effort has been put to setting out why the unmet pressures cannot be managed, such as the agreement that the authorities have 'worked to explain and understand each other's housing supply position' and that there were no further suitable sites close to the administrative borders. However, the ability to provide homes to meet the needs of neighbouring authorities should not be restricted to sites close to the boundary given the extent of the reach of the HMA within Mid Sussex.
57. In sum, it seems from the minutes of the meetings provided²⁶ that there has been a disproportionate onus on the process of providing a signed SoCG for the three Councils, rather than maximising the effectiveness of plan preparation.
58. The authorities are agreed that, in theory, any unmet needs within the HMA should have first call on any surplus capacity. Following this, once these needs have been provided for, those of the Coastal West Sussex HMA can be considered, and then those of other

²⁵ DP1, DPH1.

²⁶ AP-013, Appendix 2.

adjacent and nearby authorities. Meeting the needs of other neighbouring authorities outside of the priority order would only be acceptable where this can be justified by evidence and considered jointly with the NWSHMA members.

59. Given the quantum of unmet needs in the HMA, at c 9000 dwellings, this would, in practice, make it highly unlikely that any other local authorities would ever be able to benefit from MSDC taking on any of their unmet needs. I note that this approach has previously been tested at examination in relation to Horsham and Mid Sussex's adopted Plan. However, Policy DP5 of the adopted Plan, makes explicit the importance of working to address unmet need in the wider sub-region.
60. This policy includes working with all neighbouring authorities: an approach consistent with the legislation which requires a LPA to co-operate with every other person, in maximising the effectiveness of plan preparation, in relation to the planning of sustainable development.
61. Nonetheless, I note concerns were raised in early 2023²⁷ by Crawley that, in the absence of an active WGSB, other authorities should be invited to the NWSHMA to, '*demonstrate that the NWS authorities are not just looking inwardly at the NWSHMA but are actively pursuing and awaiting engagement from the Coastal Authorities.*' As far as I am aware this has not been done.
62. I have noted that in May 2024, by which time the strategy of the Plan had been established and it was ready to be submitted for examination, it was suggested that the NWS authorities SoCG be sent to other members of the WSGB so as to, '*proactively prepare and circulate material before Plan submission which is in itself evidence of positive planning and meeting the DtC*²⁸'. Given that both MSDC and Horsham were about to submit their plans for examination, it is difficult to see how this amounts to engagement of any meaningful sort. Rather, it seems to me that it was an attempt to focus the collective narrative around performance in relation to the DtC. That is not, in and of itself, co-operation under the Duty. I am

²⁷ AP-013, Appendix A2 Meeting 5 January 2023.

²⁸ AP-013, Appendix 2 Meeting 23 May 2024

also aware that I have not been provided with any evidence of whether there was formal member on-going engagement in plan preparation.

63. In sum, the housing SoCG suggests that it has not been possible to provide for unmet needs other than through any housing which is surplus to Mid Sussex's needs. This position is vague and is neither consistent with the objectives of the Framework nor those of Policy DP5 of the adopted Plan. Moreover, the SoCG appears to commit to working together to address unmet needs at a future date, citing water neutrality as a reason why needs cannot be met in full. This is something which the PPG counsels against and is not relevant to my consideration of the DtC and the preparations associated with this Plan.

64. Notwithstanding the signed individual SoCGs with Crawley and Horsham, I consider that the DtC has not been met with these two constituent authorities as MSDC has not engaged constrictively, actively and on an on-going basis in plan preparation.

Other Neighbouring Authorities

65. The latest HMA produced for MSDC is clear that there are in fact two other HMAs which overlap with the district²⁹. In addition, it is clear from the chronology of the DtC activities³⁰ supplied by the Council that outside of the NWSHMA that MSDC has not actively engaged with other LPAs other than in a very cursory manner.

66. MSDC officers met with officers in the South Downs National Park (SDNP) in August 2022. Given its status as a National Park it is severely constrained and lies immediately to the south of the plan area for Mid- Sussex.

67. To its south is Brighton and Hove (B & H), which like Crawley, has very little opportunity to expand. In its case, it is bound by the English Channel to the south and the SDNP to the north.

²⁹ H1 Paragraph 1.8.

³⁰ AP-013, Appendix E.

68. Currently, it has a considerable quantum of unmet needs at 17,000 dwellings, which is even greater than those of Crawley and Horsham, with substantially more likely in the future. It has been known since before the adoption of the extant Mid Sussex Plan³¹ in 2018 that B & H's unmet housing needs are, and will, remain considerable. Notwithstanding the intervening SDNP, B & H consistently ranks as being the local authority from which most people move into Mid Sussex (1,094)³². This clearly demonstrates the close functional links in the housing market which is recognised within the HMA and is an indicator of close functional links recognised within the PPG.
69. Notwithstanding the extensive needs of B & H, as set out above the NWSA SoCG³³ prioritises the unmet needs of Horsham and Crawley. This means the unmet needs of B & H, have to all intents and purposes been discounted. As such, irrespective of the acute need experienced by B & H, there has been no meaningful attempt to maximise the effectiveness of plan preparation in relation to such an important strategic cross boundary issue.
70. An informal request for Mid Sussex to help meet B & H's needs was made in September 2021³⁴. I note from the minutes of the NWSHMA that your Council had concerns that B & H did not have a clear understanding of the extent of its unmet needs and did not agree with the hierarchy set by the three authorities.
71. However, there does not appear to have been active, constructive and ongoing engagement with B & H, rather your Council had minimal interaction with B & H. It briefed and consulted on the SSM, together with other neighbouring LPAs in September 2021. In mid-2022 a further meeting took place between the authorities. Discussion took place relating to the Mayfield site, which was shared between Horsham and MSDC, but which was not taken forward. However, the meeting's main purpose was to, *'Explain the background to the preparation of the District Plan Review; ensure B & H is fully briefed on the plan preparation process and the evidence, and to provide an opportunity to question and understand the work of*

³¹ BD1.

³² REP-42888161-002 Figure 1, source ONS table IM2022-T2b

³³ DC4.

³⁴ AP013- Appendix E.

*MSDC...*³⁵. Again, this approach is not the active constructive engagement to maximise plan preparation required by the DtC.

72. Moreover, during the meeting B & H set out its concerns, regarding the NWSHMA's hierarchical approach to unmet needs. B & H also expressed concerns as to whether all options were being explored to optimise the potential for housing. As far as I can gather these points were dismissed without constructive dialogue or any otherwise meaningful exploration of the issues.
73. A further meeting took place in December 2022 in relation to the Regulation 18 consultation. However, it is clear that it was a means to ensure B & H could question and understand the Plan, rather than to engage in its preparation. Similarly, the meeting immediately prior to the Regulation 19 consultation gave little opportunity to shape plan preparation, with the Council making explicit that the strategy had not changed since Regulation 18, and that once MSDC had met its own needs it would prioritise those of the NWSHMA.
74. As such, MSDC's approach to B & H has not been that of active, on-going constructive engagement.
75. Lewes lies to the east of Mid Sussex to the north of B & H and abuts the southern half of the district. It too is constrained. MSDC officers met with it during the Regulation consultation. Following this, Lewes wrote to MSDC in February 2024 to request assistance in meeting a potential quantum of unmet need of between 2,675 and 6,628 dwellings to 2040. MSDC responded that the NWSA authorities have an agreed Statement of Common Ground which states that any over-supply will be prioritised for this HMA. Therefore, given the level of unmet need arising in the NWSHMA and the over-supply proposed within the submission draft District Plan, this Council will not be able to contribute towards unmet needs arising in Lewes district³⁶. Nonetheless, given the timing of this I have not considered the Council's response to be critical in terms of the DtC.
76. Wealden completes the eastern boundary of the district. Other than the original briefing on the plan at the beginning of plan preparation

³⁵ AP013- Appendix A6, meeting of 15 June 2022.

³⁶ AP013- Appendix 7.

in September 2021, individual meetings took place in November 2022 and 2023 as part of the formal consultation process. It considers that it has a shortfall of 4,071 dwellings and made a formal request in April 2024 for help in meeting its unmet housing needs. However, in its response MSDC made clear that it needs to prioritise the NWS area and therefore is unable to contribute towards helping to meet Wealden's unmet needs³⁷. It also referenced the work of the WSGB, which as set out above has not been active during the preparation of the Plan. However, given the lateness of the request in relation to MSDC's plan preparation, it is something which does not impact on its compliance with the DtC.

77. Finally, Tandridge lies to the north of Mid Sussex and has many policy constraints and is unlikely to meet its own needs. However, it is at a very early stage in plan making.

78. In sum, MSDC is surrounded by local authorities who either have an undefined or defined quantum of unmet housing needs and these needs are significant³⁸.

Conclusion

79. Crawley, B & H and other neighbouring authorities have long acknowledged significant and extensive unmet housing needs. Indeed, these were recognised by the previous Inspector. Moreover, other neighbouring local authorities such as Horsham have grappled with issues of water neutrality and potential impacts on their ability to meet their own and other's needs.

80. The review of the adopted Plan³⁹ envisaged under Policy DP5 was to ensure that additional sites could come forward in sufficient time to contribute to the sub-region's unmet housing need. This process was to be planned effectively and strategically. Clearly, it would have been an easier task for the Council if one of the wider sub-regional organisations actively took the lead in addressing unmet needs. However, this was not the case during the preparation of the plan.

³⁷ AP013- Appendix 7.

³⁸ H5 paragraph 40.

³⁹ BD1

81. Nonetheless, your officers will have been aware of this considerable unmet need and the Council's legal obligations, well before the significant milestones in the preparation of the Plan. Consequently, in practical terms the lack of active engagement by the two sub-regional groups has meant that in practice, MSDC needed to co-operate with its neighbours directly to ensure that it addressed its legal obligations in relation to the DtC. These obligations are not discretionary.
82. The Council has an obligation to maximise the effectiveness of plan preparation in a wider sub region where there are significant unmet needs. It has not provided the evidence to demonstrate that it has engaged constructively, in an active and on-going way to do so.
83. In considering this obligation, I am aware that Mid Sussex has its own constraints, such as the North Downs National Landscape, the setting of the South Downs National Park and the limitations to development relating to the Ashdown Forest SPA/SAC and that the water neutrality issue affects a relatively small strip of land on the western edge of Mid Sussex. Nevertheless, the presence of constraints does not obviate the necessity for MSDC to explore the possibilities of doing more to help address the unmet needs of the wider sub- region. The failure here is that the Council has not adequately *considered* the requests of its neighbours – namely Crawley, Horsham and Brighton and Hove, in a constructive, active and ongoing way. The Council has, consequently, not maximised the effectiveness of plan preparation.
84. I appreciate that the contents of this letter will be a disappointment to you. However, a failure to meet the DtC is a matter which cannot be rectified. As such, there are two options open to the Council, either to withdraw the Plan from examination or to ask that I write a report of my conclusions. I should say that the latter would involve further expense, and that the contents of the report would likely be very similar to this letter.
85. I would ask that you let me know via the Programme Officer when I should expect a response as to whether you are intending to withdraw the Plan or ask that I write a report. I have asked that the Programme Officer posts a copy of this letter on the website.

However, I am not inviting comment on the contents of this letter either from the Council or other examination participants.

Yours Sincerely

Louise Nurser

INSPECTOR

4 April 2025