

Legal Compliance (General) - Index by ID Number

ID	Respondent	Organisation	BehalfOf	Respondent Category	Participate
615		South of Folders Lane Action Group (SOFLAG)		<div>Organisation</div>	<input type="checkbox"/>
2378	Mr P Egan		Wellhouse Lane Residents Association	<div>Organisation</div>	<input type="checkbox"/>

615

Site Allocations DPD: Regulation 19 Consultation Response

Code: 1h

ID: 615

Response Ref: Reg19/615/7

Respondent:

Organisation: South of Folders Lane Action Group (SOFLAG)

On Behalf Of:

Category: Organisation

Appear at Examination? ✓

Name	SOFLAG SOFLAG
Organisation	SOFLAG - South of Folders Lane Action Group
Address	[REDACTED]
Email	[REDACTED]
Name or Organisation	SOFLAG
Which document are you commenting on?	Site Allocations DPD
Sites DPD Policy Number (e.g. SA1 - SA38)	SA12 & SA13
Do you consider the Site Allocations DPD is in accordance with legal and procedural requirements; including the duty to cooperate	No
(1) Positively prepared	Unsound
(2) Justified	Unsound
(3) Effective	Unsound
(4) Consistent with national policy	Unsound

Please outline why you either support or object (on legal or soundness grounds) to the Site Allocations DPD

The inclusion of Sites SA12 and SA13 renders the Draft Site Selection DPD (Regulation 19) unsound.

In addition, the Site Selection process has not been carried out in accordance with the criteria set out by MSDC at the start of the process.

In summary:

1. MSDC assessed Sites SA12 & SA13 as unsuitable in 2007, 2013 & 2016.

The reasons for their unsuitability have escalated since then, making the sites undeliverable in 2020. These include:

- a. Inadequate local transport infrastructure for which there is no potential feasible solution.
- b. Unsuitable & unsustainable location
- c. Unacceptable coalescence between Burgess Hill and the villages to the south
- d. Ecological damage to one of the most important and ecologically diverse sites in West Sussex

2. MSDC omitted adopted District Plan selection criteria (including policies DP12, DP13, DP37, DP38) from the site selection process, which, if applied correctly, make the sites unsuitable & undeliverable.

3. Verified ecological data clearly indicates that SA13 is the habitat for an exceptional variety of internationally and nationally protected species. This renders it unsuitable for development.

4. Opposition to the sites from local authorities and statutory bodies makes them undeliverable.

5. MSDC's handling of the Site Allocations process in preparing the DPD was unsound. The reasons for this include:

- Reliance on a flawed Transport Study containing errors and omissions
- Misleading of key Council Meetings by MSDC Officers and Councillors
- Mishandling of Regulation 18 Consultation by MSDC with objections and evidence omitted
- Selection criteria inconsistently applied to sites during process
- A serious cloud hanging over the final site selection recommendation decision

Full details are supplied in the SOFLAG response which is uploaded here as a pdf, together with the GTA Civils transport study to which it refers.

Both these documents should be forwarded to the Planning Inspector in full.

SOFLAG wish to be represented and speak at the hearing.

Please set out what change(s) you consider necessary to make the Site Allocations DPD legally compliant or sound, having regard to the reason you have identified at question 5 above where this relates to soundness.

Sites SA12 & SA13 should be removed from the list of sites selected for development.

If they are included, the Plan is not legally compliant and remains unsound.

If you wish to provide further documentation to support your response, you can upload it here

https://forms.midsussex.gov.uk/upload_dld.php?fileid=5a7b600e95d3179ab2df03bc40cd1ecb

If your representation is seeking a change, do you consider it necessary to attend and give evidence at the hearing part of the examination	Yes, I wish to participate at the oral examination
If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary	<p>SOFLAG represents the views of over 1000 supporters, residents of south east Burgess Hill, Hassocks, Ditchling and Keymer, who will be directly affected if Sites SA12 & SA13 are allocated for housing.</p> <p>It is important that these views are heard in public at the Hearing to ensure fair representation and the presentation of all the relevant facts to the Inspector. The Inspector will then have the opportunity to question SOFLAG on our submission if required.</p>
Please notify me when-The Plan has been submitted for Examination	yes
Please notify me when-The publication of the recommendations from the Examination	yes
Please notify me when-The Site Allocations DPD is adopted	yes
Date	27/09/2020

From: info@soflag.co.uk
Sent: 28 September 2020 15:55
To: ldfconsultation
Subject: Site Allocations DPD Regulation 19 consultation
Attachments: SOFLAG submission Reg 19 Sep 2020 Main Rep FINAL.pdf; GTA Civils full report.pdf

Categories: 

Please find attached the SOFLAG response to the Regulation 19 Site Allocations DPD Consultation and the Transport Report to which it refers.

We have also submitted it via the online form, and in hard copy to Oaklands Road this afternoon.

In summary, we are objecting to the inclusion of Sites SA12 & SA13 as allocations for housing.

- They contravene District Plan policies DP6, DP7, DP12, DP13, DP15, DP18, DP37, DP38, as well as the legally binding NPPF.
- There remain insurmountable traffic issues which the SYSTRA modelling does not adequately address
- Development of these sites will cause loss of biodiversity, environmental damage and coalescence of Burgess Hill and villages to the south
- The site selection process which led to their inclusion was unsound

The inclusion of Sites SA12 & SA13 renders the Site Allocations DPD itself unsound.

We ask that our response be forwarded in full to the Planning Inspector – not just summarised or paraphrased.

We wish to be represented and to speak at the Examination Hearings. Please let us know what we need to do to ensure this happens.

Kind regards,

Keith Sullens
Acting Chair

SOFLAG

SOFLAG

SOUTH OF FOLDERS LANE ACTION GROUP

Submission

Draft Site Allocations DPD (Regulation 19) Consultation



OBJECTION

to the inclusion of Sites SA12 & SA13



September 2020

THE INCLUSION OF HOUSING SITES SA12 & SA13 RENDERS MSDC'S SITE ALLOCATIONS DPD UNSOUND AND THEY SHOULD BE REMOVED.

Terms of Reference

This is an objection to the Site Allocations DPD (Regulation 19) Consultation by SOFLAG – the South of Folders Lane Action Group.

SOFLAG represents over 1000 supporters, the very large majority of whom are residents of south-east Burgess Hill, Hassocks, Keymer and Ditchling (mainly residents of the Folders Lane / Keymer Road area) who will be directly affected by the allocation of the greenfield sites SA12 & SA13 for housing.

SOFLAG submitted a detailed objection to the Site Allocations DPD at Regulation 18 stage, and has raised numerous issues throughout the process. It also sought access to significant and relevant information from MSDC in order to understand MSDC's decision making process through FOI, but MSDC have refused to release all the information requested.

This submission explains all of this in full, and should be read in conjunction with the documentary evidence supplied.

Summary

This objection contains five sections covering the reasons why the inclusion of Sites SA12 and SA13 renders the Draft Site Selection DPD (Regulation 19) unsound.

This is an evidence-based document, with each statement of objection being substantiated by detailed evidence which includes Mid Sussex District Council documents, independent reports, and analysis of the Site Selection process.

Sections 1 - 4 explain why the sites are unsuitable, unsustainable and undeliverable, including:

1. MSDC assessed the sites as unsuitable in 2004, 2007, 2013 & 2016.
The reasons for their unsuitability have escalated since then, making the sites undeliverable in 2020.
These include:
 - Inadequate local transport infrastructure for which there is no viable solution
 - Unsuitable & unsustainable location
 - Known consequence of coalescence
 - Ecological damage to one of the most important and ecologically diverse sites in West Sussex
2. Omission or disregarding by MSDC of key adopted District Plan selection criteria (including policies DP6, DP7, DP12, DP13, DP15, DP18, DP37, DP38) from the site selection process, and the disregarding

of relevant requirements of the NPPF, both of which if applied correctly would make the sites unsuitable & undeliverable.

3. Verified ecological data that clearly indicates that SA13 is the habitat for an exceptional variety of internationally and nationally protected species that renders it an unsuitable and unsustainable site for development
4. Opposition to the sites from local authorities and statutory bodies makes them undeliverable.

Section 5 provides evidence of how MSDC's handling of the Site Allocations process in preparing the DPD was in itself unsound and should be redone, including:

- Reliance on a flawed Transport Study containing errors and omissions
- Selection criteria inconsistently applied to sites during process
- Errors and inconsistencies in the Sustainability Appraisal
- Mishandling of Regulation 18 Consultation by MSDC with objections and evidence omitted
- Misleading of key Council Meetings by MSDC Officers and Councillors
- MSDC's use of the housing land supply "buffer" to justify their site selection is inconsistent and applied incorrectly
- Serious cloud hanging over the final site selection recommendation decision

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SECTION 1

SITES SA12 / SA13 ARE UNSUITABLE, UNSUSTAINABLE AND UNDELIVERABLE

MSDC included them in the Site Allocations DPD despite being aware of this through their own assessments and other documentary evidence, making the DPD unsound.

- 1-1 Sites previously assessed as unsuitable and undeliverable, remaining so today
 - 1-2 A long history of traffic issues making the sites unsustainable and undeliverable
 - 1-3 Allocating these sites will cause coalescence, contrary to planning policy
 - 1-4 An unsustainable location causing harm to the South Downs National Park
 - 1-5 A lack of infrastructure making the sites unsuitable
-

1-1 SITES SA12 & SA13 HAVE BEEN REPEATEDLY ASSESSED AS UNSUITABLE AND UNDELIVERABLE, REMAINING SO TODAY

MSDC assessed the fields South of Folders Lane as unsuitable in 2004, 2007, 2013 & 2016. In 2020 the locations remain unsuitable and unsustainable, rendering the sites undeliverable and in conflict with planning law.

2004 Local Plan

- 1.1 Policies from the Local Plan were saved into the District Plan. This plan was adopted following Inspection, and the Inspector's conclusions regarding various potential housing sites that now make up Sites SA12 and SA13 (and which were all agreed by MSDC) are summarised below:

OMS01 Land south of Folders Lane and Woodward's Close, Burgess Hill	Development would compromise Strategic Gap. Sustainability of site is outweighed by adverse impact on character and appearance of the area.
OMS02 Land south of Folders Lane, Burgess Hill	Site forms part of open countryside on edge of town and is important lung of open space between Burgess Hill and Ditchling Common. No overriding reason why site should be released
OMS03 Land south of Folders Lane, east of Broadlands, Burgess Hill	Site is part of open countryside and is detached from built up area. Development would lead to serious and obvious erosion of Strategic Gap

- 1.2 These conclusions remain valid, and the Inspector's full remarks concerning OMS01 are particularly relevant:

*"I consider that the omission site lies in an important position in terms of the functions and purpose of this part of the Strategic Gap. Any significant diminution of the substantially undeveloped space between Hassocks and Burgess Hill in this location would, if perpetuated, lead to an incremental merging or **coalescence** of the settlements. **I do not consider that a development on this site would be as inconspicuous or harmless as is alleged**, having regard to the pattern and form of the nearby and adjacent development. I agree that the site has some attributes in terms of it being in a reasonably sustainable location but these benefits are outweighed by **the harm that the development of the site would cause in terms of the effects on the character and appearance of the area and the creeping coalescence of the built-up areas of Hassocks and Burgess Hill that would materialise.**"¹*

2007 Mid Sussex District Local Development Framework Small Scale Housing Allocations Development Plan Document.

- 1.3 Schedule C to the Inspector's Report listed "Alternative Sites that are NOT suitable to be included in the DPD" which included ALT45 which corresponds with part of the current Site SA13. The Inspector concluded that even this limited area should not be allocated for housing stating: *"it would be difficult to design, lay out and landscape the site without knowing whether further development would follow. That risks **an unacceptably intrusive development in open countryside**"²*
- 1.4 He went on to say: ***"To develop this site in addition would risk adding unacceptably to pressures on infrastructure including the local road network."***³
- These conclusions remain extremely relevant, with other developments having already been completed or allocated in the immediate surrounding area.

2013 Assessment

- 1.5 In the Burgess Hill Assessed Sites document, site 557 (part of SA13) was recorded as unsuitable. Reasons given included:
- There is likely to be significant highways impacts on the local road network
 - Site location is 150m from the South Downs National Park boundary at its closest point. Notwithstanding this buffer, there would need to be a thorough investigation of the visual impact of potential development on this designated area
 - Until the impacts on the highways network and the National Park are properly understood and evidenced, this site is assumed to be unsuitable for development.⁴

¹ Mid Sussex Local Plan Inspector's Report, Omission Site 1 Land South of Folders Lane, http://www.midsussex.gov.uk/media/ch5_-_housing.pdf Page 69 - 70

² 2007 Mid Sussex District Local Development Framework Small Scale Housing Allocations Development Plan Document, Schedule C to the Inspector's Report, para 1.213

³ Ibid para 1.214

⁴ 2013 Burgess Hill Assessed Sites 557 (BH/D/21) Land south of Folders Lane and east of Keymer Road, Burgess Hill (Site H West)

2016 Assessment

- 1.6 In the Burgess Hill Assessed Sites document, site 557 (part of SA13) was assessed again as unsuitable. Reasons given included:
- Most of the site has low landscape suitability for development
 - The fields also have a time depth value as characteristic assarts⁵ with mature oaks.
 - There are potential significant transport impacts on the road network as a result of developing this site (in particular the east-west link issues in Burgess Hill).
 - Overall the site is considered unsuitable for development due to the unknown impact on the highway network.⁶

Conflict with Mid Sussex District Plan

- 1.7 To select these sites for development would contravene policies **DP12, DP13, DP37** and **DP38** of the adopted Mid Sussex District Plan. Policies **DP37** (trees, woodland and hedgerows) and **DP38** (biodiversity) concern the ecology of the sites and are dealt with in full in Section 3 of this submission.
- 1.8 **Policy DP12** concerns protection and enhancement of the countryside and states: *"The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there."*⁷ This precious area of countryside to the south of Burgess Hill, explicitly identified for protection in the Burgess Hill Neighbourhood plan, does not need to be developed. There is sufficient already developed land available elsewhere to accommodate the housing requirement.
- 1.9 **Policy DP13** concerns coalescence and states: *"Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements."* With the strategic allocation for 500 homes at Clayton Mills already eating in to the gap between Burgess Hill and the villages to the south, development at Site SA13 would lead to unacceptable coalescence (and is in any case in conflict with Policy DP12).

(see also section 1.3)

Conflict with NPPF

- 1.10 The NPPF is the overall UK planning law that governs local authorities, and it supports these District Plan policies.
- Para 17** of the NPPF states that planning decisions must "take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts

⁵ The definition of an assart the dictionary is an area of land that has had trees and undergrowth removed and the ground broken up in preparation for cultivation.

⁶ 2016 Burgess Hill Assessed Sites 557 (BH/D/21) Land south of Folders Lane and east of Keymer Road, Burgess Hill

⁷ Mid Sussex District Plan, page 34

around them, recognising the intrinsic character and beauty of the countryside.” To select Sites SA12 and SA13 for development would conflict with this.

- 1.11 **Para 109** of the NPPF refers to 'protecting and enhancing valued landscapes' and MSDC Case Officer Stuart Malcolm made a relevant point in 2018 when refusing an application in the area:
*“case law has suggested that land does not have to lie within a designated area to be 'valued' and that landscape value accrues separate to designated status and that such value is derived from some physical attributes”*⁸
The value of this site cannot be questioned – to develop it would be harmful and in contravention of the NPPF.

- 1.12 The importance of the NPPF's core principles and its valuing of the countryside was confirmed by then Housing Minister Brandon Lewis in his public letter to the Planning Inspectorate of 17 March 2015 in which he stated:
*“I have become aware of several recent appeal cases in which harm to landscape character has been an important consideration in the appeal being dismissed.
These cases are a reminder of one of the twelve core principles at paragraph 17 of the National Planning Policy Framework – that plans and decisions should take into account the different roles and character of different areas, and recognise the intrinsic character and beauty of the countryside – to ensure that development is suitable for the local context.”*⁹

1-2 A LONG HISTORY OF TRAFFIC ISSUES WITH NO SOLUTION

Sites SA12 / SA13 are unsuitable, unsustainable and undeliverable due to inadequate transport infrastructure, particularly relating to traffic. MSDC have been aware of this for over 15 years, and there is no viable solution proposed.

- 1.13 Sites SA12 and SA13 are unsuitable for inclusion in the Draft Site Allocations DPD as to develop them would lead to further and unacceptable traffic gridlock in Burgess Hill stemming from the site access onto Folders Lane and Keymer Road. This in turn will cause dangerous (and possibly unlawful) increases in pollution and have a serious adverse effect on the amenity of existing and proposed residents of this area and beyond. There would also be a significant economic loss caused by the increased traffic congestion.
- 1.14 This means that these sites are unsustainable under the terms of the NPPF and should be removed from the list of sites proposed as suitable for development.
- 1.15 The fundamental problem with the southern side of Burgess Hill is that there are only 2 places to cross the railway, at Hassocks Station and Burgess Hill station. This pushes all traffic either through the congested and polluted Stonepound Crossroads, Hassocks (a designated Air Quality Management area) or into the town via Folders Lane / Keymer Road and Hoadleys Corner.

⁸ DM/16/3959, February 2018, Delegated Report, p 9

⁹ Letter Brandon Lewis MP, DCLG, to Simon Ridley, Chief Executive, Planning Inspectorate, 27 March 2015

- 1.16 The SYSTRA study appears to suggest that improvements to the A23 / A2300 junctions will take traffic out of South-East Burgess Hill. This is simply not true. The vast majority of vehicles using Folders Lane / Keymer Road / Hoadleys Corner during the morning and evening peaks are journeying to or from the immediate locality and would never divert via the A23. Most of these would have to use Folders Lane / Keymer Road or Hoadleys Corner to even get to the A23.
- 1.17 Most traffic using this route into Burgess Hill cannot realistically divert via these proposed improvements to the A23 / A2300.
Example: A commuter from Ditchling working in Burgess Hill would travel 4 miles via Keymer Road / Folders Lane. Using the A23 / A2300 and avoiding Stonepound would require a journey of 13 miles – an unrealistic alternative option. There are no buses or trains.
- 1.18 MSDC have always known this to be a problem with development in the Folders Lane / Keymer Road area. The only solution is a new spine road, as proposed by Atkins in 2005. No such road is proposed in the Site Allocations DPD.
- 1.19 The 2004 Mid Sussex Local Plan outlined the problems in this part of Burgess Hill:
*"While access on the west side of the town has benefited from the new development, east-west movements across the town are hampered by the railway and the limited number of crossing points. A number of roads in the area lying to the east of the railway have restricted capacity and suffer from serious congestion at peak periods. **There are no simple solutions to these problems.**"*¹⁰
Since 2004 hundreds of houses have been added to this area, these problems are already much worse, and beyond the mitigation abilities of traffic signals.

2005 Atkins Study

- 1.20 This MSDC commissioned in-depth study looked at long term housing development possibilities for Mid Sussex, and included a comprehensive Burgess Hill Feasibility Study. The conclusions of the study are clear. Development to the south of Folders Lane was only thought to be a viable option, if a new relief road across Batchelors Farm (referred to as the "eastern spine road") was constructed. This would provide an additional crossing point for the railway and relieve congestion in the town.
- 1.21 ***"A proposed eastern spine road, would be required to serve the sites and help to improve overall accessibility to the east of Burgess Hill." "...a new Spine Road to the east of Burgess Hill to relieve traffic congestion in the town centre."***¹¹
- 1.22 It is very clear that 15 years ago, traffic in Burgess Hill was so bad that adding hundreds more dwellings south of Folders Lane would only be feasible with a new spine road. No such road has been planned and over 1000 houses have already been constructed without it. As a result, the South-East part of the town is frequently gridlocked. MSDC are fully aware of this.

¹⁰ Mid Sussex Local Plan, May 2004, para 11.14, page 176

¹¹ Feasibility study for development options at Burgess Hill, Atkins, Sept 2005 p49

2007 – 2016 Site SA13 repeatedly assessed as “Unsuitable for Development”

- 1.23 Since the Atkins Study, MSDC has on 3 separate occasions cited ‘traffic’ as a reason to assess the fields south of Folders Lane as ‘unsuitable for development’, and since each of the assessments more houses have been built within a few hundred metres of the site, increasing vehicle movements on these already congested roads.
- 1.24 In addition, since the 2016 assessment (see para 1.6) hundreds more houses and therefore vehicle journeys have been added to the immediate locality. This is fully explained at Appendix 1 A.

SUMMARY OF THE EVIDENCE IN APPENDIX 1 A (USING VEHICLE TRIP DATA FROM MSDC’S 2019 SYSTRA TRANSPORT STUDY):

Since the site south of Folders Lane was assessed as unsuitable by MSDC in 2007:

670 houses have been built and occupied
= 817 vehicle movements per day = 298,000 per year

Then add the 730 currently under construction, plus 500 to come at Clayton Mills

TOTAL 2217 extra houses = 2704 daily / 987,000 annual vehicle movements

SITE SA12 / SA13 (343 houses) = additional 418 daily, 152,737 annual vehicle movements

Traffic Today



- 1.25 The position today, before the completion and full occupation of the Kingsway, Keymer Tiles and Folders Grove developments, is that the Folders Lane / Keymer Road junction is gridlocked every morning and evening peak. This causes dangerous pollution levels on pavements used by children walking to Birchwood Grove Primary School and Burgess Hill Girls. The traffic results in delays to local residents and costs businesses money. It was surprising that the SYSTRA study as published in November 2019 did not consider this junction worth modelling – though SYSTRA did acknowledge severe congestion at Hoadleys Corner, which is fed by traffic from Folders Lane / Keymer Road.
- 1.26 The Site Allocations DPD Sustainability Appraisal cites issues caused by the high level of car ownership in Mid Sussex
"High vehicle ownership and the potential for highway congestion arising from development present a significant issue".¹²
 86.4% of households having one or more cars or vans, compared to 74.2% nationally. 44.2% of all households have two or more cars compared to 32.1% nationally¹³ which inevitably leads to traffic congestion issues, as currently experienced in the Folders Lane / Keymer Road area.
- 1.27 Appendix 1B contains photographs and Google Traffic evidence from October 2019, proving that these roads cannot cope now. No amount of mitigation from traffic lights will prevent the situation from worsening when the houses currently under construction are occupied, let alone if another 343 are permitted on Sites SA12 and SA13.

MSDC Transport Studies

- 1.28 MSDC are heavily reliant on the SYSTRA Mid Sussex Transport Study, which initially did not even consider the Folders Lane / Keymer Road junction, and assesses congestion at Hoadleys Corner to be already severe. SYSTRA proposes mitigation including improvements to the A23 / A2300 junction (approx. 5 miles away by road), and improvements to the railway station. Most commuters driving into and through Burgess Hill come from outlying towns and villages with no railway station and poor bus services.
- 1.29 SYSTRA's confidence that this mitigation will not make traffic more severe is in contrast with previous MSDC studies. Although the material facts of the road network and local area are either unchanged or have worsened since those studies.

2012/2013 – Mid Sussex Transport Study (Amey)

- 1.30 In 2012, Folders Lane was considered important enough to be one of 5 roadside interview locations around Burgess Hill, together with automatic traffic counting and journey time surveys.
- 1.31 The Folders Lane / Keymer Road junction was deemed to require "primary remedial" mitigation based on the development planned at this time, which was a much lower number of houses – and therefore vehicle movements – than is now being proposed.

¹² Site Allocations DPD Sustainability Appraisal (Regulation) 19 July 2020 para 3.46 page 19

¹³ Ibid. para 3.39 page 17

- 1.32 Ratio of flow to capacity (RFC) at this junction was listed as one of the “worst performing links” and predicted to be over 100% based on significantly less development than is now being proposed:
“Travel demand associated with the Mid Sussex Development Case (2) (the most realistic mitigation scenario) will have a detrimental impact upon highway network performance at a few critical locations... B2113 Folders Lane / Keymer Road junction, Burgess Hill”¹⁴.
 It remains a mystery why this junction was not even mentioned in the initial 2019 SYSTRA report.
- 1.33 Hoadleys Corner, which is mentioned by SYSTRA, was also felt to be a significant problem in 2012/13 with serious problems with traffic trying to get through Burgess Hill from the direction of proposed sites SA12 and SA13:
“B2113 RFC will exceed 100% westbound, between Junction Road and London Road in Burgess Hill, in all situations, except DC3... Intervention schemes in DC3 will mitigate this problem, by extending A273 Jane Murray Way between Keymer Road and London Road, thereby providing an alternative route to B2113 Station Road;”¹⁵
- 1.34 In other words, the southern relief (eastern spine) road is the only way to solve this, based on the lower number of houses being proposed in 2012. This junction simply cannot take an additional 343 houses.
 (Mid Sussex Transport Study, MSTs Stage 1 Final Report, Document reference: CO03022422FR03, December 2012)

2017 MSDC Constraints & Capacity Summary Paper

- 1.35 Submitted as part of the District Plan Examination, this paper also touched on the significant problems with increasing the housing allocation at Burgess Hill.
- 1.36 Looking at the problems with any addition of extra housing numbers (which is what is now being proposed by this Site Allocations DPD), MSDC stated:
*“further development over the plan period is likely to add further complexity to a challenging situation and if further sites are developed, there are concerns that a solution to east/ west linkages across the town will need to be found...
 based on the likely ‘2 tick’ undeliverable/undevelopable sites that would be required to meet various provision levels, shows that an additional 10 sites totalling 596 units would be required that have significant site-specific or area-based transport constraints, to meet a raised provision level of 850dpa. There is also a challenge for these smaller schemes to viably deliver mitigation in the context of a congested overall network. ”¹⁶*

¹⁴ Mid Sussex Transport Study, MSTs Stage 1 Final Report, p65

¹⁵ Mid Sussex Transport Study, MSTs Stage 1 Final Report, p56-57

¹⁶ MSDC 7 Constraints and Capacity – Summary Paper, Submitted to the Mid Sussex Examination, 27 January 2017, p27

2019 SYSTRA Study

- 1.37 There were many apparent flaws and inconsistencies in the SYSTRA study, obvious to the local residents who actually use the road network, though apparently not clear to the computer modelling which SYSTRA used.
- 1.38 Because of this, SOFLAG engaged an expert transport consultant, GTA Civils to examine the study. GTA Civils produced a comprehensive report which accompanies this submission, with the summary attached at Appendix 1 C
MSDC's reliance on SYSTRA's flawed study, is discussed further in Section 4.
- 1.39 The mitigation proposed by SYSTRA will not only fail to help the severe congestion, it may also cause significant harm to the local area and its residents.
- 1.40 The proposed mitigation for the severely congested Hoadleys Corner is to change a roundabout to traffic signals. This contradicts the evidence of many academic studies across the world, demonstrating that roundabouts consistently outperform traffic signals at multi-arm junctions in terms of both pollution control and travel times.
- 1.41 Examples include:
- "at a roundabout replacing a signalised junction, CO emissions decreased by 29%, NO_x emissions by 21% and fuel consumption by 28%."¹⁷
- "... replacing the traffic signal with the roundabout has produced a significant improvement in terms of traffic operational performance (20% reduction of total travel time)... The main finding of the study is that the roundabout generally outperformed the fixed-time traffic signal in terms of vehicle emissions"¹⁸
- 1.42 As these examples show, much of the research has been done on the benefits of replacing signal-controlled junctions with roundabouts, so it is concerning to see MSDC apparently moving in the opposite direction, thereby risking significant increases in delays and harmful pollution.

¹⁷ Transportation Research Part D: Transport & Environment, vol 7, issue 1, Jan 2002

¹⁸ Evaluation of air pollution impacts of a signal control to roundabout conversion using microsimulation, Transportation Research Procedia 3, 2014, (conclusion p 1039)

1-3 COALESCENCE

Allocating Sites SA12 & SA13 will lead to coalescence between Burgess Hill and the villages of Keymer and Hassocks to the south, contravening planning policy and making them unsuitable and undeliverable.

- 1.43 Sites SA12 & SA13 form one of the last remaining parts of a historic field system, bounded by ancient hedgerows, between Burgess Hill and the villages to the south. The sites form part of the strategic gap between Burgess Hill and those villages. This part of the gap along Keymer Road / Ockley Lane has become even more vulnerable and therefore more important following the strategic allocation of the 500 homes on the Clayton Mills site directly to the south which narrows the gap considerably at this point.
- 1.44 Proximity to the built-up boundary of a settlement is one of MSDC's criteria for site selection. Developing Sites SA12 & SA13 moves the built-up boundary to the southern edge of Wellhouse Lane, which is in fact in Keymer parish, so the two settlements will have coalesced according to local authority boundaries.
- 1.45 This moving of the boundary makes the fields on the south side of Wellhouse Lane contiguous with the settlement, as demonstrated by the fact that they have been proposed for 200 houses in MSDC's recently published Strategic Housing and Economic Land Availability Assessment (SHELAA). This increases the coalescence between Burgess Hill and Keymer.
The trajectory of coalescence is shown at Appendix 1 D
- 1.46 Allocation of Sites SA12 / SA13 contravenes Policy DP13 of the MSDC District Plan. The District Plan seeks to prevent coalescence and in Policy DP13 states that it will only permit development where **"it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements."** It is reasonable to conclude that the building of two housing estates, one with 300 homes, would have an urbanising effect. It would certainly result in coalescence as the already small gap would be halved.
- 1.47 The District Plan states that:
"When travelling between settlements people should have a sense that they have left one before arriving at the next".¹⁹
Travelling time down Keymer Road / Ockley Lane between the two settlements would be reduced to zero.
- 1.48 The strategic gaps identified in the District and Neighbourhood Plans form what is in effect Burgess Hill's Green Belt. Protection of such land is identified in the NPPF under section 13, which states:

¹⁹ Mid Sussex District Plan, DP13, page 58

"The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence." ²⁰

1.49 The NPPF states that the purposes of Green Belts include:

- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*²¹

Allocation of Sites SA12 and SA13 would be in conflict with this part of the NPPF.

1-4 AN UNSUSTAINABLE LOCATION CAUSING HARM TO THE SOUTH DOWNS NATIONAL PARK

1.50 The significant and irreversible ecological harm that would be caused by the allocation of these sites is dealt with in full in Section 3 of this submission.

1.51 Sites SA12 & SA13 form the last remaining part of a historic field system, bounded by ancient hedgerows and are adjacent to the South Downs National Park. Untouched by modern farming methods, they have become an incredibly bio-diverse area containing many important species that must be protected from future development.

1.52 The sites are clearly visible from the ridge and public footpath between the Jack & Jill Windmills and Ditchling Beacon. If permitted, two large housing estates would be clearly in view and have a detrimental effect compared to the current field system.
The detrimental effect the development of these two sites would have on the SDNP is best described by the SDNP itself.

1.53 A planning application 19/0276 (now withdrawn), was made in 2019 for 43 houses to be built on Site SA12. The SDNP submitted a strong representation (copied in full at Appendix 1 E) for refusal of that application. It is exactly the same proposal - 43 houses in the same field - that has now been put forward by MSDC as site SA12.

1.54 Reasons for objection included:

... is likely to be harmful to the special qualities and landscape character of the setting of the South Downs National Park

... the cumulative increase in traffic movements and the subsequent detrimental impact this could have on the peace and tranquillity on both the setting of and within the South Downs National Park

... the potential to have significant effects on the dark skies of the National Park²²

²⁰ National Planning Policy Framework, para 133

²¹ Ibid. para 134

²² Letter from Tim Slaney, Director of Planning, SDNPA, 5th August 2019 (See Appendix 1 F)

- 1.55 This representation could not be clearer. The SDNPA state unequivocally that development at Site SA12 would be harmful to the setting of the National Park and should be refused.
- 1.56 The SDNPA raised serious objections to Site SA12 & SA13 at the Regulation 18 Consultation. These included:
- this is a highly sensitive site likely to have high ecological value and whose character is shared with land in the SDNP
 - the proposed allocation would erode the rural buffer between Burgess Hill and the SDNP, which is likely to be harmful to the special qualities and landscape character of the setting of the SDNP
 - the potential for increased traffic in and through the village of Ditchling, and other parts of the SDNP, and its impact on tranquillity
 - in May 2016 the SDNP became an International Dark Sky Reserve (IDSR). Lighting as part of development of these sites has the potential for significant effects on the dark skies of the Reserve, particularly as a result of increases in light spill/ambient lighting²³
- 1.57 The SDNPA continue to have serious concerns, raised in their Statement of Common Ground dated 7 August 2020. They reminded MSDC that at Regulation 18 Stage:
- "concern was raised that the proposed allocations would erode the rural buffer between Burgess Hill and the South Downs National Park, potentially harming the special qualities and landscape character of the setting of the South Downs National Park."*
- 1.58 They express particular concern about site SA13:
- "With regard to SA13 in particular, this site is part of a larger landscape whose character experienced today survives from the medieval period. This historic character is shared with parts of the South Downs National Park and this coherence in historic character suggests the site contributes positively to the setting of the South Downs National Park."*²⁴
- 1.59 The Statement of Common Ground makes it clear that Site SA13 is unsuitable for the proposed development:
- "based on the evidence currently available, the South Downs National Park Authority, with regard to SA13, has some remaining concern about whether the figure proposed (300 dwellings) can be accommodated in a way which is sensitive to the role of this area as part of the rural transition from Burgess Hill to the South Downs National Park which includes many characteristic elements of the Wealden landscape."*²⁵
- 1.60 The setting of the South Downs National Park is protected by the District Plan which states:
- "Development within land that contributes to the setting of the South Downs National Park will only be permitted where it does not detract from, or cause detriment to, the visual and special qualities (including dark skies), tranquillity and essential characteristics of the National Park, **and in particular should not adversely affect transitional open green spaces between the site and the boundary of the South Downs National Park, and the views, outlook and aspect, into and out of the National Park by***

²³ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 398

²⁴ MSDC / South Downs National Park Authority Statement of Common Ground, 7 August 2020, page 3

²⁵ Ibid.

virtue of its location, scale, form or design."²⁶

- 1.61 Development of Sites SA12 & SA13 would be harmful to the setting of the South Downs National Park in contravention of Policy DP19 of the MSDC District Plan.
- In refusing to remove Sites SA12 and SA13 from the Site Allocations DPD, MSDC is proposing sites that are unsuitable, unsustainable and undeliverable while also causing harm and contravening planning policy.

1.5 A LACK OF INFRASTRUCTURE MAKES THE SITES UNSUITABLE

- 1.62 The infrastructure that caters for this area of South-East Burgess Hill (east of the railway and from the Kingsway estates to the south), is stretched to breaking point - in particular the schools and the doctor's surgery. In the last 12 years an additional 600 homes have been built and are now occupied. There are a further 800+ houses currently under construction in this area that have yet to be occupied with no definite plans in place to build any schools or surgeries. In the proposals for Sites SA12 & SA13 there is no mention of the provision of either of these vital services. Any suggestion that these facilities could be added later should not be given any credence as history clearly indicates that such things never happen. All the previous large sites proposed for development in Mid Sussex have always included the provision of surgeries and schools where these have been deemed necessary. The records show that if they are not included in the proposals, none are added subsequently, and unfortunately there have been instances where they were not built.

Schools

- 1.63 Birchwood Grove is the nearest state primary school to sites SA12 and SA13. This school has only 5 vacancies within its six different year groups. Given that it is likely the majority of the occupants of the 800 new homes currently being built in the area will want their young children to attend Birchwood Grove it is inconceivable that the school could accommodate them. Children from the proposed sites SA12 and SA13 would find securing a place at the school impossible, being even further behind in the queue. It should also be pointed out that other than the private Girls School, there is no provision for secondary education on this side of Burgess Hill.
- 1.64 There are plans to build a new school as part of the Clayton Mills development in Hassocks, with access to be onto Ockley Lane (the southern part of Keymer Road). As schools in Burgess Hill are at capacity, it is likely that children from Burgess Hill will attend this new school. The distance, together with the fact that Keymer Road / Ockley Lane is a 60mph road with no pavement for a considerable part of it means it is not a realistic prospect for cycling or walking to school. This will further add to congestion and is not sustainable.

²⁶ Mid Sussex Adopted District Plan 2014 – 2031, page 65

1.65 **Doctors' Surgeries**

The nearest surgery to sites SA12 and SA13, and the only one in the immediate area, is the Silverdale Practice in Silverdale Road Burgess Hill. It has taken on 2,000 new patients in the last 7 years. The flow of new patients continues to build up as the more than 800 homes in the area are built and occupied. Once residents from these homes are added to the doctor's lists then it is difficult to see there is any capacity to deal with patients that would come from sites SA12 and SA13 as well. Some patients are already being sent to an overflow surgery in Hurstpierpoint – not a sustainable situation.

Traffic

- 1.66 As covered in detail elsewhere in this paper, traffic is a major issue and concern in this area. The large majority of the schoolchildren and those requiring a GP surgery appointment are going to have to find the facilities they need outside the immediate area and on the western side of the railway. Very few will want or indeed be able to walk. This lack of provision of the desperately needed schools and surgeries is therefore going to exacerbate an already insurmountable problem.
- 1.67 In Sites SA12 & SA13 MSDC are allocating an unsuitable option without provision of sufficient infrastructure while other options have been rejected that would have infrastructure built on site – thus making them more sustainable and deliverable choices.

APPENDIX 1 A

Summary of Site Unsuitability from MSDC Housing / Traffic Data

Since this site was deemed unsuitable and undeliverable by MSDC in 2007, 670 houses have been built and occupied = 817 vehicle movements per day = 298,000 per year

Add the 730 currently under construction, plus potential 500 at Clayton Mills:

TOTAL 2217 extra houses = 2704 daily / 987,000 annual vehicle movements

2007

Small Scale Housing Allocations Development Plan Document

Schedule C to the Inspector's Report - Alternative Sites that are **NOT** suitable to be included in the DPD

Site then known as ALT45 Land South of Folders Lane:

"To develop this site in addition would risk adding unacceptably to pressures on infrastructure including the local road network" (page 30, para 1.214)

2007 – 2012: 173 occupied houses added to Folders Lane / Keymer Rd area = 211 vehicle trips per day

2013

Housing Land Supply Burgess Hill Assessed Sites 2013

Site 557 Land south of Folders Lane and east of Keymer Road, Burgess Hill (Site H, west)

"There are potential significant transport impacts on the road network as a result of developing this site (in particular the east-west link issues in Burgess Hill). It is currently assumed that this will severely limit the ability of this site to be delivered unless detailed transport assessment evidence suggests otherwise"

2013 – 2015: 101 occupied houses added to Folders Lane / Keymer Rd area = 123 vehicle trips per day

2016

Housing Land Supply Burgess Hill Assessed Sites 2016

557 Land south of Folders Lane and east of Keymer Road, Burgess Hill (excluding site 738)

"There are potential significant transport impacts on the road network as a result of developing this site (in particular the east-west link issues in Burgess Hill). It is currently assumed that this will severely limit the ability of this site to be delivered unless detailed transport assessment evidence suggests otherwise" [the identical issue as identified in 2013]

2016 – 2019: 396 occupied houses added to Folders Lane / Keymer Rd area = 483 vehicle trips per day

Vehicle trip data taken from MSDC transport survey September 2019

<https://www.midsussex.gov.uk/media/4419/mid-sussex-transport-study-transport-impact-of-scenario-2-3.pdf>

<https://www.midsussex.gov.uk/media/4418/mid-sussex-transport-study-transport-impact-of-scenario-1.pdf>

Site	Houses	Trip Rate AM O	Trip Rate AM D	Trip Rate PM O	Trip Rate PM D	Trips AM O	Trips AM D	Trips PM O	Trips PM D	TOTAL DAILY TRIPS
Kingsway	406	0.397	0.191	0.143	0.486	161	78	58	197	494
Keymer Tiles	379	0.397	0.191	0.143	0.486	150	72	54	184	460
Kingsway	66	0.397	0.191	0.143	0.486	26	13	9	32	80
Jones	76	0.397	0.191	0.143	0.486	30	15	11	37	93
TOTAL	927					367	178	132	450	1127

This survey lists among its "Junctions with SIGNIFICANT or SEVERE impact in either AM or PM Peak Hour"

Burgess Hill: Junction Road / B2113, Burgess Hill (Hoadleys Corner roundabout) **SEVERE**

The Strategic Allocation at Clayton Mills Hassocks (NOT INCLUDED IN THIS STUDY) will have one vehicular exit onto the southern end of Keymer Road (called Ockley Lane).

Site	Houses	Trip Rate AM O	Trip Rate AM D	Trip Rate PM O	Trip Rate PM D	Trips AM O	Trips AM D	Trips PM O	Trips PM D	TOTAL DAILY TRIPS
Clayton Mills	500	0.397	0.191	0.143	0.486	199	96	71	243	609
= HALF AS MANY AGAIN NOT COUNTED										
TOTAL	1427					566	274	203	693	1736

MSDC uses Total trip rate per dwelling per day = 1.22

These additional uncompleted houses produce 1736 daily trips (>630,000 per year), traffic not yet seen on Folders Lane / Keymer Road

Appendix 1 B

Disruptive traffic congestion on Folders Lane / Keymer Road, morning peak

Photographs of traffic



6/11/2019
Keymer Road
looking south



01/10/2019
Folders Lane
looking east

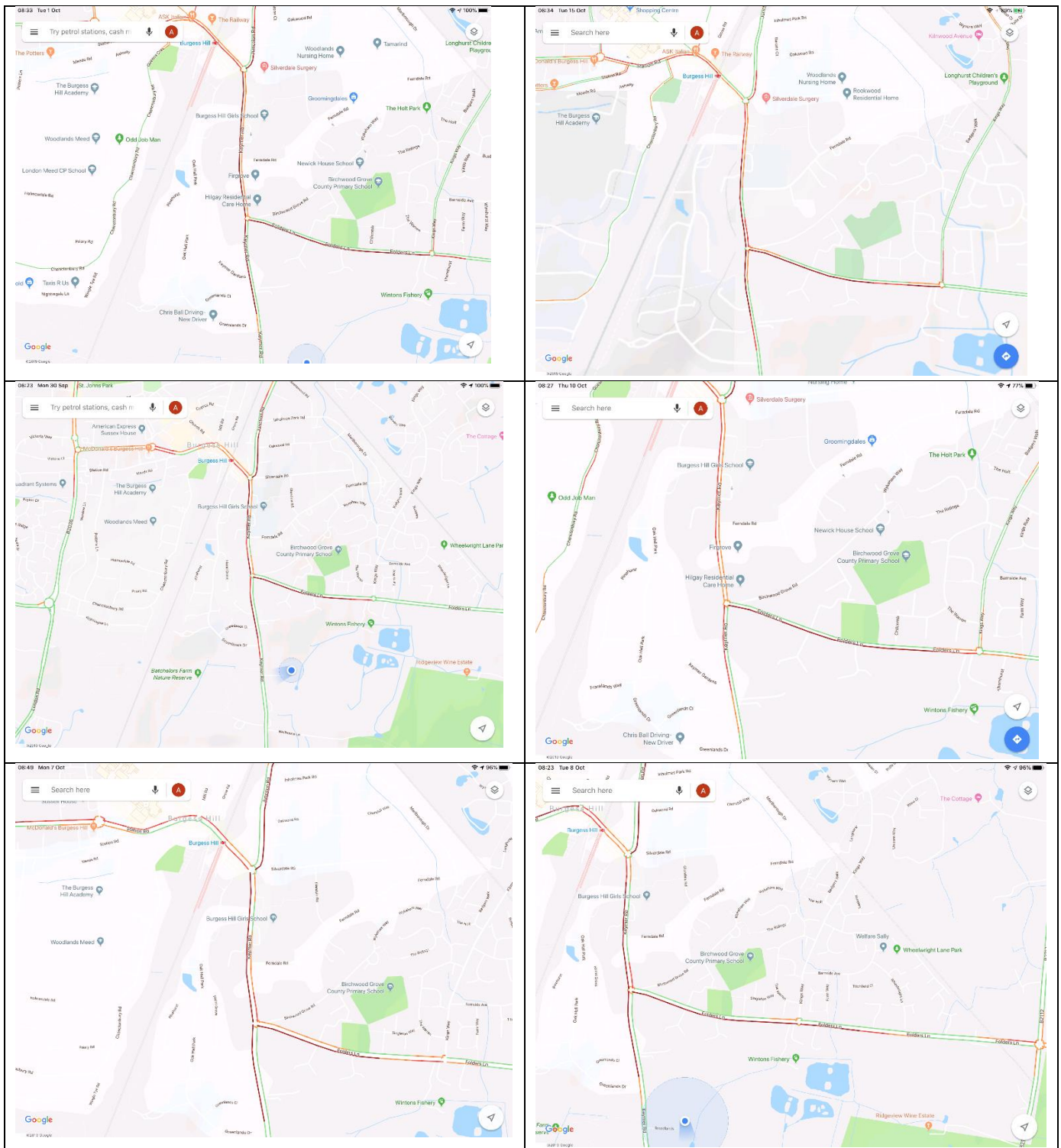


01/10/2019
Keymer Road
looking north



01/10/2019
Keymer Road
looking south

Daily morning congestion reported by Google, October 2019



Appendix 1 C

Mid Sussex Sites DPD – GTA Civils Review of Highway Impacts - SUMMARY

- The Mid Sussex Strategic Highway Model (MSSHM) has been used by MSDC to assess the transport impacts of the Sites DPD.
- The comparison of existing observed and modelled flows for road links in the vicinity of Folders Lane appears generally acceptable. However, there may be an issue with the way in which the B2112 from Janes Lane to Ditchling crossroads is described in the model which would affect the model's determination of route shares for all north/south traffic in the southern and central parts of the district.
- Folders Lane currently carries traffic flows that are well within its capacity in link terms. Traffic generated by both the Local Plan and the Sites DPD allocations for sites served from Folders Lane would not compromise that.
- Highway network impacts are assessed in the study reports by reference to their severity, but there are concerns about the criteria adopted to define 'severe' and 'significant' (which is a lower level of impact used in the MSSHM reporting). The incremental impact approach used under-represents cumulative impacts with the Sites DPD allocations added. There is also no assessment of impacts on highway safety as required by NPPF para 109.
- At the western junction of Folders Lane with Keymer Road (Junction S27), the Sites DPD assessment misrepresents the way that the junction works in conjunction with the much more heavily impacted junction (Junction S6) of Keymer Road / Station Road / Junction Road / Silverdale Road to the north.
- Junction S6 would operate at well over capacity with excessive RFCs, queues and delays, in all Scenarios greater than in the base year, and the operation of the Folders Lane/ Keymer Road junction (junction S27) would increasingly be impacted by the inadequacies of Junction S6. This could only be exacerbated by new traffic generated by the Folders Lane area allocations in the Sites DPD.
- Modelling of the 2031 end-of-plan-period forecast year clearly shows that the package of highway improvements already committed and included in the Reference Case (RC) Scenario (including the Local Plan development) is not sufficient on its own to enable the level of development included in the RC alone to be delivered without widespread 'severe' highway network impacts.
- As set out in the Sites DPD testing report, the contribution of sustainable transport initiatives to resolving the additional impacts of additional Sites DPD sites would be marginal at best.
- The Sites DPD additional highway mitigation, focussed on the A23 and its junction with A2300, is clearly not only important to mitigate the additional traffic demands of the Sites DPD sites, but is also essential to enable the impacts of the RC itself (i.e. the local plan without any additional Sites DPD sites) to be potentially considered tolerable.

Appendix 1 D

COALESCENCE

MSDC are knowingly causing coalescence between Burgess Hill and Keymer / Hassocks by allocating Sites SA12 & SA13 in addition to the Strategic Allocation at Clayton Mills

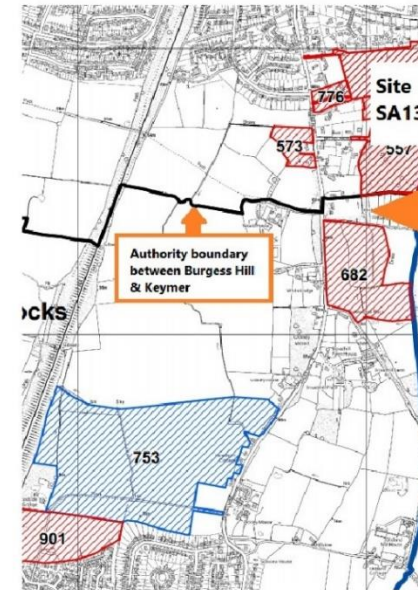
2020



2022...



2023...



Gap between Burgess Hill
and Keymer is gone.

Allocation of SA12 / SA13
causes coalescence

Map from MSDC 2020 SHELAA

If Sites SA12 / SA13 are allocated by the DPD, MSDC planning policy states that the boundary of Burgess Hill moves to the southern edge of the built up area - Wellhouse Lane.

This makes site 682, (proposed by a developer in the 2020 SHELAA), contiguous so it cannot be refused.

APPENDIX 1 E

Neighbouring Authority Consultation

SDNP/19/03508/ADJAUT Roy Little
07872 410433

5th August 2019

Proposal: Adjacent Authority Consultation - DM/19/0276 - Proposed erection of 43 dwellings and associated works. Amended plans and Transport Statement received 12th and 15th July 2019.
Address: Land rear of 96 Folders Lane, Burgess Hill, West Sussex

Thank you for your correspondence received 17 July 2019, consulting us as a neighbouring authority on the above noted development proposals.

The National Park's comments on the development are as follows:

*'The Environment Act 1995 sets out the two statutory purposes for National Parks in England and Wales:
Conserve and enhance the natural beauty, wildlife and cultural heritage
Promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the Public
which relevant authorities (which includes local authorities) must have regard to in exercising their functions.
National Parks Authorities have the duty to:
'Seek to foster the economic and social well-being of local communities within the National Parks' in pursuit of the twin purposes above.*

Following is the formal consultation response of the South Downs National Park Authority (SDNPA) on the above application.

The site for the proposed development for 43 units and associated infrastructure works would be approximately 350-400 metres from the southern and eastern boundaries of the South Downs National Park.

*Notwithstanding the allowed appeal for 73 dwellings and associated infrastructure under reference 14/04492/FUL by Inquiry held on 14 and 15 March 2017, on land adjacent and to the west of this site and currently under construction, **the proposed development under DM/19/0276 would extend well beyond the existing residential boundary of Folders Lane in Burgess Hill. The further expansion of residential development in this locality on open rural land outside the settlement boundary together with its associated infrastructure, would significantly reduce the landscape buffer up to the boundary of the National Park. In turn, such development is likely to detrimentally exacerbate the further urbanisation of this predominantly rural location, which is likely to be harmful to the special qualities and landscape character of the setting of the South Downs National Park.***

It is further considered that even with the combination of existing trees and planting, together with the proposed new landscaping would not mitigate for the loss and erosion of this valuable landscape buffer as an essential and effective soft-scape transition from the urban form to open rural countryside, in particular the South Downs National Park. Therefore, the proposed development would result in substantial urban built form impact, extending out from the built-up area of Burgess Hill, on a valuable and essential open green countryside location, in an incongruous and unnatural way, on the fringe of the wider countryside setting, harmful to the setting of the South Downs National Park.

Furthermore, the proposed housing development would bring with it the resultant and associated traffic movements that would not complement the tranquillity of the nearby National Park. In particular, the South Downs National Park Authority raise concerns about the potential for increased traffic in and through the village of Ditchling, and other parts of the National Park, that are likely to be generated from the proposed development, including its contribution to the cumulative increase in traffic movements and the subsequent detrimental impact this could have

on the peace and tranquillity on both the setting of and within the South Downs National Park. For the reasons given, the South Downs National Park Authority have serious concerns about the proposed development in this location.

In addition, internal and external infrastructure lighting required in connection with this proposal, including domestic lighting from windows of the proposed dwellings, have the potential to have significant effects on the dark skies of the National Park. In May 2016 the South Downs National Park became the world's newest International Dark Sky Reserve (IDSR). Therefore the development should include a full appraisal of both internal and external lighting to consider what impact it may have on the dark skies of the nearby National Park and if it is appropriate, if/how it can be mitigated to meet the lighting standards of the Institute of Lighting Professionals (ILP) for this zone.

As the landscape, with its special qualities, is the main element of the nearby South Downs National Park and its setting, attention is drawn to the South Downs Integrated Landscape Character Assessment (Updated 2011) as a key document as part of the overall assessment of the impact of the development proposal, both individually and cumulatively, on the landscape character of the setting of the South Downs National Park; this document can be found at: <http://www.southdowns.gov.uk/about-us/integrated-landscape-character-assessment>

Taking into account the above in the determination of this application, the SDNPA would also draw attention of Mid Sussex District Council, as a relevant authority, to the Duty of Regard, as set out in the DEFRA guidance note at: <http://archive.defra.gov.uk/rural/documents/protected/npaonb-duties-guide.pdf>

It may also be helpful to consider the development proposals in the context of National Park Circular 2010 for guidance on these issues at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221086/pb13387-vision-circular2010.pdf

The SDNPA trust that the above comments are helpful to Mid Sussex District Council in the appraisal and determination of this planning application, in consideration of the setting and special qualities of the South Downs National Park.

Yours faithfully

TIM SLANEY

*Director of Planning
South Downs National Park Authority*

SECTION 2

MSDC FAILED TO APPLY ADOPTED DISTRICT PLAN SELECTION CRITERIA TO THE SITE ALLOCATIONS WHICH ARE THEREFORE UNSOUND

The Site Selection DPD and its inclusion of Sites SA12 & SA13 is unsound due to MSDC's deliberate omission and disregarding of key adopted District Plan selection criteria from the site selection process, and the disregarding of relevant requirements of the NPPF. If applied correctly to Sites SA12 & SA13, they would be clearly assessed as unsuitable & undeliverable.

- 2-1 MSDC site assessments did not consider whether settlements had already taken sufficient housing numbers to meet their District Plan requirement.
 - 2-2 MSDC site assessments did not give due consideration to the risk of coalescence between settlements, contravening District Plan and national planning policies
 - 2-3 MSDC did not apply other District Plan policies to the site selection process, leading to the allocation of sites they knew would be undeliverable
-

2-1 MSDC SITE ASSESSMENTS DID NOT CONSIDER WHETHER SETTLEMENTS HAD ALREADY TAKEN SUFFICIENT HOUSING NUMBERS TO MEET THEIR DISTRICT PLAN REQUIREMENT

This contravenes both the Mid Sussex District Plan and the terms of the Site Allocations DPD itself. Had this been correctly applied, Sites SA12 & SA13 would not have been allocated.

- 2.1 Development in Mid Sussex is governed by the adopted Mid Sussex District Plan, to which this Site Allocations DPD will contribute. Whilst the current site selection process is not itself making final planning decisions, it is the precursor to that and those sites selected will then have a presumption in favour of approval when an application for development is made. This means the site selection process must take into consideration the requirements and policies of the local development plan which, in this case, is the Mid Sussex District Plan.
- 2.2 Sites SA12 & SA13 are located in Burgess Hill, a settlement that has already taken its required housing allocation according to the District Plan, which is the legally binding planning framework for Mid Sussex. Additional sites are required in the District, and the Site Allocations Development Plan Document outlines the way in which they are to be allocated:
"The Sites DPD allocates additional development sites to meet the residual necessary to meet the agreed housing requirement for the plan period as reflected in the District Plan 2014-2031."

*The additional allocations are in accordance with the Spatial Strategy and Strategic Policies set out in the District Plan.*²⁷

- 2.3 The Spatial Strategy of the District Plan when it was drawn up was to *"focus the majority of housing and employment development at Burgess Hill"*²⁸ This has been achieved with the Northern Arc Strategic Allocation which will bring 3,500 new homes to Burgess Hill. District Plan policy DP4 (Housing) goes on to state *"The remainder of development will be delivered as sustainable developments, including possible new strategic developments and development in other towns and villages"*²⁹
To allocate 300+ additional houses at Sites SA12 & SA13 in Burgess Hill conflicts with the Spatial Strategy.
- 2.4 Adopted District Plan Policy DP6 deals with settlement hierarchy, and it could not be clearer: *"Some settlements (Burgess Hill, Hassocks, Hurstpierpoint, Ashurst Wood, Handcross, Pease Pottage, Scaynes Hill, Ansty, Staplefield, Slaugham and Warninglid) have already identified sufficient commitments / completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans."*³⁰
- 2.5 While Sites SA12 & SA13 are not within the Burgess Hill Neighbourhood Plan boundary (which on the south side of town coincides with the existing edge of housing development), they are being considered a part of the Burgess Hill settlement hierarchy in the same way as the Northern Arc sites which are also outside the Neighbourhood Plan area.
- 2.6 It would be logical to assume that DP6 would be a consideration when MSDC assessed potential housing sites. However, this did not happen. While the MSDC Sustainability Appraisal does mention in passing that *"Burgess Hill has met its residual need"*³¹ whether or not a site is in a settlement that has already met its housing requirement did not appear to be a consideration.
- 2.7 SOFLAG asked for clarification of this under FOI and the correspondence is attached at Appendix 2 A.
MSDC were asked specifically if any weighting was given to whether settlements had already met their housing requirements when assessing site allocations. MSDC did not provide any evidence that any such weighting was given, referring the questioner to the Site Selection Proformas and Methodology posted on their website. Whether or not the site is in a location that has already met its housing requirement is not mentioned at all in these papers, suggesting this was not considered one of the criteria.

²⁷ Submission Draft Site Allocations DPD page 8

²⁸ Mid Sussex Adopted District Plan page 30

²⁹ Ibid.

³⁰ Ibid. page 38

³¹ Site Allocations DPD Sustainability Appraisal (Incorporating Strategic Environmental Assessment) Regulation 18, page 56

Allocating Sites SA12 & SA13 conflicts with District Plan policy DP6. MSDC have failed to take this into account making the Site Allocations DPD unsound. Sites SA12 & SA13 should be removed.

2-2 MSDC SITE ASSESSMENTS DID NOT GIVE DUE CONSIDERATION TO THE RISK OF COALESCENCE BETWEEN SETTLEMENTS

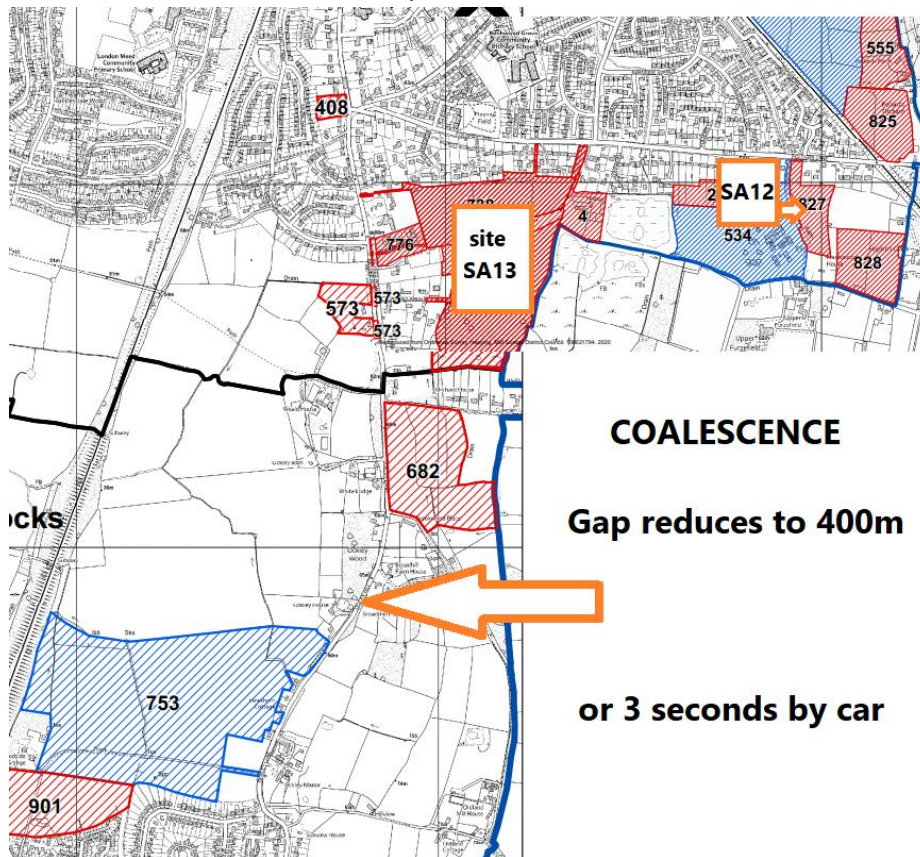
This contravenes District Plan and national planning policies. Allocation of Sites SA12 & SA13 will lead to coalescence and their inclusion makes the Sites Allocations DPD unsound.

- 2.8 As already outlined in Section 1.3, the allocation of these sites will lead to coalescence contravening District Plan policy DP13. The trajectory of coalescence is shown at Appendix 1 D. District Plan policy DP13 is a strategic objective to prevent the towns and villages in Mid Sussex from merging, and should have been part of the site selection criteria.
- 2.9 SOFLAG sought clarification from MSDC under FOI whether weighting was given to coalescence when assessing sites. MSDC did not provide evidence of any such weighting. Their answer is at Appendix 2 A – a referral to the methodology and site selection proformas in Site Selection Papers 1, 2, 3 and 4 on the MSDC website.
- 2.10 These Site Selection Papers do not contain much at all on “coalescence”. In *Paper 1: Site Allocations Development Plan Document Site Selection Paper 1 – Assessment of Housing Sites against District Plan Strategy*, the term “Coalescence” appears once in Appendix 4 as part of the “Detailed assessment of constraints and Opportunities - Further desk-top assessment of site opportunities and constraints, and mitigation measures”³² which lists the following:
- Flooding
 - Landscape
 - Heritage
 - Biodiversity
 - Employment
 - Accessibility
 - Transport
 - Pollution/contamination
 - Relationship to built up area/adjacent settlements
 - Impact on coalescence**
 - Capacity to provide infrastructure
 - AONB

The “output” from these is to be “SHELAA proformas with commentary”. In the proformas that appear in *Paper 3 Housing – Appendix B: Housing Site Proformas*, all of the items on that list appear as categories EXCEPT “Relationship to built up area/adjacent settlements” and “Impact on coalescence” indicating that these two were NOT used as selection criteria.

³² Site Allocations Development Plan Document Site Selection Paper 1 – Assessment of Housing Sites against District Plan Strategy, Appendix 4, page 14

- 2.11 In the proformas in Paper 3, the word "coalescence" does not appear at all in relation to either Sites SA12/13 – **see Appendix 2 B**. It is only mentioned in any of the site selection proformas as a Neighbourhood Plan policy - for example as EG2(a) with reference to Site ID 733 Land between 43 and 59 Hurst Farm Road, East Grinstead.
- 2.12 The word "coalescence" does not occur at all in *Site Selection Paper 2: Methodology for Site Selection* - suggesting it did not feature as a consideration.
- 2.13 Had Coalescence been correctly assessed as a selection criterion, Sites SA12 and SA13 could not legitimately have been included in the DPD. The southern boundary of Site SA13 is the northern edge of the gardens of the houses on Wellhouse Lane. These houses are not in Burgess Hill. They are in Keymer parish, and in fact a different parliamentary constituency from Burgess Hill (Arundel and South Downs rather than Mid Sussex). If Site SA13 is developed Burgess Hill and Keymer will have joined.
- 2.14 MSDC are fully aware of the likelihood of coalescence between Burgess Hill and Hassocks / Keymer. The latest SHELAA maps show all those sites being proposed for housing, including south of Site SA13 at Wellhouse Lane – the consequence is clear:



(The trajectory of coalescence is shown at Appendix 1 D).

- 2.15 District Plan DP 13, the strategic objective to avoid coalescence, was not given sufficient (if any) weighting as a selection criterion, making the Site Allocations DPD and in particular the inclusion of sites SA12 & SA13, unsound.

2-3 MSDC DID NOT APPLY OTHER DISTRICT PLAN POLICIES TO THE SITE SELECTION PROCESS, LEADING TO THE ALLOCATION OF SITES THEY KNEW WOULD BE UNDELIVERABLE

- 2.16 Planning policy making in England is governed by the NPPF, providing the framework within which local plans such as the Mid Sussex District Plan and this Site Allocations DPD must be produced: *“Planning law requires that applications for planning permission must be determined in accordance with the development plan², unless material considerations indicate otherwise³. **The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.**”³³*
- 2.17 Therefore, MSDC should have taken both NPPF and their own development plan (adopted District Plan) policies into account when selecting housing sites. However, MSDC did not do this, particularly with reference to Sites SA12 & SA13, rendering the DPD unsound.
- 2.18 On many occasions during the Site Allocations DPD process, councillors and officers have stressed that any future planning applications will be considered against District Plan policies. By failing to adequately apply District Plan policies when assessing sites, MSDC have in Sites SA12 and SA13, knowingly allocated sites that would fail at planning when assessed against District Plan policies.
- 2.19 For example, in answer to a written question from Councillor Janice Henwood to The Scrutiny Committee for Planning, Housing and Economic Growth on 11 March 2020, about disregarded District Plan policies, Committee Chair Councillor Neville Walker responded: *“The Council has not disregarded the policies listed by Cllr Henwood. These policies are however, used to determine planning applications and are not to determine the allocation of a site, this is a separate process.. When considering allocating sites the Council must have regard to Government national policy. The Council does not have a choice in this matter.”* See Appendix 2 C for full question / answer.
- 2.20 This answer contradicts what is legally required of the DPD. “Government national policy” in the form of the NPPF explains in detail in paras 15-37 how local development plans **and their policies** govern the locations selected for development. By not taking District Plan policies properly into account, the Site Selection DPD as presented is unsound.
- 2.21 **The allocation of Sites SA12 and SA13 conflicts with the following District Plan and NPPF policies:**
Policy DP6 “Some settlements (Burgess Hill, Hassocks, Hurstpierpoint, Ashurst Wood, Handcross, Pease Pottage, Scaynes Hill, Ansty, Staplefield, Slaugham and Warninglid) have already identified sufficient commitments / completions to meet their minimum housing requirement for the full plan period and will not be expected to identify further sites within their Neighbourhood Plans.”
Policy DP37 for strategic development at Burgess Hill, to “Identify and respond to environmental, landscape and ecological constraints and deliver opportunities to enhance local biodiversity ”
Policy DP12 concerns protection and enhancement of the countryside and states: “The primary objective of the District Plan with respect to the countryside is to secure its protection by minimising

³³ National Planning Policy Framework, 2019, para 2

the amount of land taken for development and preventing development that does not need to be there.” There is a sufficient buffer without Sites SA12 & SA13 (see Section 5.5)

Policy DP13 preventing coalescence (see Section 2.2)

Policy DP15 New homes in the countryside only permitted if no conflict with DP12

Policy DP18 Setting of the South Downs National Park (see Section 1.4)

Policy DP37 protecting trees, woodland and hedgerows (see Section 3)

Policy DP38 increasing and preserving biodiversity

- 2.22 **Para 17 of the NPPF** states that planning decisions must *“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside.”* To select Sites SA12 and SA13 for development would conflict with this.
- 2.23 **Para 109** of the NPPF refers to 'protecting and enhancing valued landscapes' and MSDC Case Officer Stuart Malcolm made a relevant point in 2018 when refusing an application in the area:
*“case law has suggested that land does not have to lie within a designated area to be 'valued' and that landscape value accrues separate to designated status and that such value is derived from some physical attributes”*³⁴
- 2.24 MSDC’s failure to consider District Plan and NPPF policies when assessing sites for allocation renders the DPD unsound.

³⁴ DM/16/3959, February 2018, Delegated Report, p 9

Appendix 2 A

Freedom of Information <foi@midsussex.gov.uk>

To: Amanda Green

Fri, Aug 28 at 3:55 PM

Dear Ms Green,

Thank you for your request. Please find our response below.

In response to Q1 and Q2, the Site Selection process (including methodology and site assessment proformas) is fully documented in Site Selection Papers 1, 2, 3 and 4 available on the Council's website at <https://www.midsussex.gov.uk/planning-building/development-plan-documents/site-allocations-dpd-evidence-library/>.

If for whatever reason you are unhappy with our response you are entitled to pursue any dissatisfaction, in the first instance, by contacting Tom Clark, Solicitor to the Council, Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS, email: tom.clark@midsussex.gov.uk, quoting your Reference Number.

If you still remain dissatisfied with the response you can complain to the Information Commissioner - details available at: <https://ico.org.uk/concerns/>.

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yours sincerely,

FOI/DPA Team

Digital and Technology
01444 477422
foi@midsussex.gov.uk
<http://www.midsussex.gov.uk/my-council/freedom-of-information/>

Working together for a better Mid Sussex

OFFICIAL

From: Amanda Green <amandagreen30@yahoo.com>
Sent: 05 August 2020 12:43
To: Freedom of Information <foi@midsussex.gov.uk>
Subject: Freedom of Information request

I am making this request for information under FOI, regarding the selection of housing sites for the Site Selection DPD.

When assessing housing sites for the Site Selection DPD, both from the "long list" and when making the final selection from 40 to 22:

1. What if any weighting was given to whether the settlement in which the housing site was located had already met their housing requirement from the District Plan?

Was this taken into account, and if so, how did affect the "score" given to each site?

Please provide copies of proformas, guidance notes or other papers showing how sites were assessed against this, and copies of any assessments made against this criteria for Sites SA12, SA13 and Haywards Heath Golf Course.

2. What, if any, weighting was given to whether development of the sites being considered would lead to coalescence as defined in District Plan policy DP13?

Was this taken into account, and if so, how did affect the "score" given to each site?

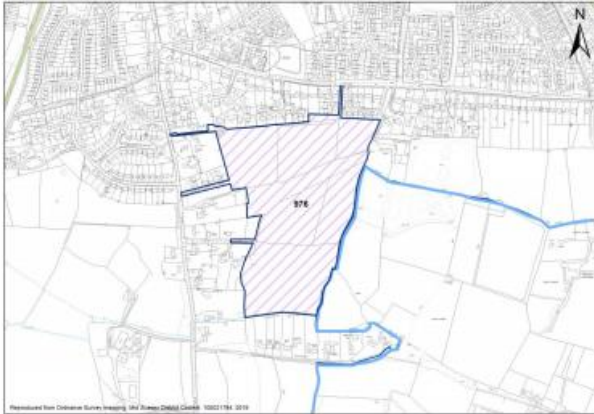
Please provide copies of proformas, guidance notes or other papers showing how sites were assessed against risk of coalescence - for example distances between the sites and neighbouring settlements etc, together with copies of any assessments made against this criteria for Sites SA12, SA13 and Haywards Heath Golf Course.

Thank you.

Kind regards,

Amanda Green

Appendix 2 B

Site Selection - Housing		
Burgess Hill		
ID	976	Land East of Keymer Road and South of Folders Lane, Burgess Hill.
		
Site Details Units: <input type="text" value="300"/> Site Area (ha): <input type="text"/>		
Part 1 - Planning Constraints		
1 - AONB	N/A	The site is remote from the High Weald AONB
2 - Flood Risk	None	The site lies entirely within Flood Zone 1, the area of lowest fluvial flood risk
3 - Ancient Woodland	None	The site is not affected by Ancient Woodland
4 - SSSI/SNCI/LNR	None	This site is not adjacent to any Sites of Special Scientific Interest or Local Wildlife Site
5 - Listed Buildings	Listed Building - Less Than Substantial Harm (Medium)	High Chimneys - the gardens to the house currently back onto open countryside. Development on the site could have some potential to affect the setting of High Chimneys, though there could be potential to limit harm through design and layout of a future scheme. NPPF: LSH, MID
6 - Conservation Area	None	There are no conservation areas within or adjacent to the site
7 - Archaeology	Moderate - Mitigation	No objection subject to archaeological assessment and mitigation. Before submission of planning application: Geophysical survey, mitigation strategy arising if appropriate.
8 - Landscape	Medium	The site has moderate landscape sensitivity and moderate landscape value. This site is surrounded by countryside and it could be viewed from the South Downs National Park. There could be loss of trees and hedgerows.
9 - Trees/TPOs	Low/Medium	TPO trees to the north of the site. TPO trees also line northern border of the site.
Part 2 - Deliverability Considerations		

976 Land East of Keymer Road and South of Folders Lane, Burgess Hill.

Site Selection - Housing		
10 - Highways		
11 - Local Road/Access	Moderate - Improve	Various potential points of access to the site; two from Keymer Road and the from Folders Lane would require the removal of a number of TPO trees. Both accesses are narrow.
12 - Deliverability	Developable	Site is control of two house builders who are able to demonstrate a coordinated approach to the development of the site.
13 - Infrastructure	Infrastructure capacity	Developer questionnaire - normal contributions apply.
Part 3 - Sustainability / Access to Services		
14 - Education	Less Than 10 Minute Walk	There is a requirement for improvements to the bus and rail interchange at Burgess Hill station. Contributions towards the new enhanced bus infrastructure in Burgess Hill as well as provision of additional and enhancement of cycle parking provision at the station. There is also an opportunity to tie-in with the work being undertaken through the Burgess Hill Road Space Audit that could enable the switch of highway provision from parking to bus priority infrastructure. Requirement for cycle path links into Burgess Hill town centre and towards the station.
15 - Health	10-15 Minute Walk	
16 - Services	10-15 Minute Walk	
17 - Public Transport	Good	
Part 4 - Other Considerations		
Neighbourhood Plan		Minerals
		No minerals considerations identified.
Waste		Environmental Health
May require reinforcement of the sewerage network		No environmental health considerations identified.
Sustainability Appraisal		Notes
Positive effects are anticipated in relation to housing and the suite of social SA objectives.		
Part 5 - Conclusion		
Summary	The site performs well in the assessment and the SA, with no biodiversity, heritage, townscape or access constraints identified. Additionally, the site's location neat to services, facilities and transport suggest it is a sustainable location for growth. Furthermore, input from the Highways Authority identifies an opportunity for development of the site to contribute towards improvements to the bus and rail interchange at Burgess Hill.	
Recommendation	Site is proposed for allocation.	

976 Land East of Keymer Road and South of Folders Lane, Burgess Hill.

SCRUTINY COMMITTEE FOR HOUSING, PLANNING & ECONOMIC GROWTH – 11 MARCH 2020

Question 4 from Councillor Henwood:

NPPF, para 17 states "recognizing the intrinsic character and beauty of the countryside"
para 109 "protecting and enhancing valued landscapes"

MSDC

Policy DP7 -"Identify and respond to environmental, landscape and ecological constraints and deliver opportunities to enhance local biodiversity "

Policy DP12- "the countryside will be protected in recognition of its intrinsic character and beauty"

Policy DP 15 "provided that they would not be in conflict with Policy DP12

Policy DP18 "to protect valued landscapes for their visual, historic and biodiversity qualities"

Policy DP 37 " development that will damage or lead to loss of trees, woodland or

hedgerowswill not normally be permitted"

Policy DP 38 "protects existing biodiversity .."

What justification can MSDC give to disregard the above policies?

Response of Councillor Neville Walker

Chairman of Scrutiny for Housing, Planning and Economic Growth

The Council has not disregarded the policies listed by Cllr Henwood.

These policies are used to determine planning applications and are not to determine the allocation of a site, this is a separate process..

When considering allocating sites the Council must have regard to Government national policy.
The Council does not have a choice in this matter. .

The Site Selection Methodology is a separate matter and includes criteria regarding an assessment of sites in the Area of Outstanding National Beauty (AONB); landscape capacity and suitability for sites outside of the AONB; and biodiversity and trees.

SECTION 3

ALLOCATING SITES SA12 & SA13 FOR HOUSING WILL CAUSE AN IRREVERSIBLE LOSS IN BIODIVERSITY AND ECOLOGICAL DAMAGE

The loss of biodiversity and ecological damage caused by the development of Sites SA12 & SA13 makes them unsustainable, unsuitable, and undeliverable without contravening MSDC Planning Policy and national planning law. Their inclusion makes the Site Allocations DPD unsound.

- 3-1 Introduction to Section 3
 - 3-2 Overview of Sites
 - 3-3 Statutory requirement on biodiversity
 - 3-4 Protected wildlife in Site SA13
 - 3-5 Irreplaceable historic field system
 - 3-6 Trees and vegetation
-

3-1 INTRODUCTION

- 3.1 Sites SA12 & SA13 form one of the last remaining parts of a historic field system, bounded by ancient hedgerows, between Burgess Hill and the villages to the south. Untouched by modern farming methods, they have become an incredibly bio-diverse area containing many important species that must be protected from future development.
- 3.2 The data in the report provided by the Sussex Biodiversity Records Centre detailed in sub-section 3.4, (see summary attached at Appendix 3A), is unequivocal. It clearly demonstrates that Site SA13 is of great ecological importance, as the lists of threatened species included in this section show. Sussex Biodiversity Records Centre is part of the Sussex Wildlife Trust, the acknowledged expert on this subject in Mid Sussex. It is most unlikely that there is anywhere within miles, or possibly even within Sussex, where such an ancient field pattern containing such important flora and fauna currently exist in peaceful harmony.
- 3.3 The site itself is also environmentally unsuited to development as it is relatively low lying and the heavy clay weald leaves many parts of it prone to flooding.
- 3.4 The District Plan policy DP38 requires MSDC to ensure development:
"Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity..."

*Protects existing biodiversity, so that there is no net loss of biodiversity...*³⁵

There can only be a severe loss of biodiversity should Sites SA12 & SA13 be allocated for development.

- 3.5 This section provides comprehensive expert evidence that any benefits from the addition to the housing supply in Mid Sussex are far outweighed by the environmental and ecological damage caused by development. This site is unsuitable for development from an ecological and environmental perspective.
- 3.6 To allow development on sites SA12 & SA13 would contravene planning legislation (including the NPPF), and environmental protection laws, and would cause a devastating and irreversible loss of habitat to a host of protected species. Their inclusion in the Site Allocations DPD makes the plan unsound.

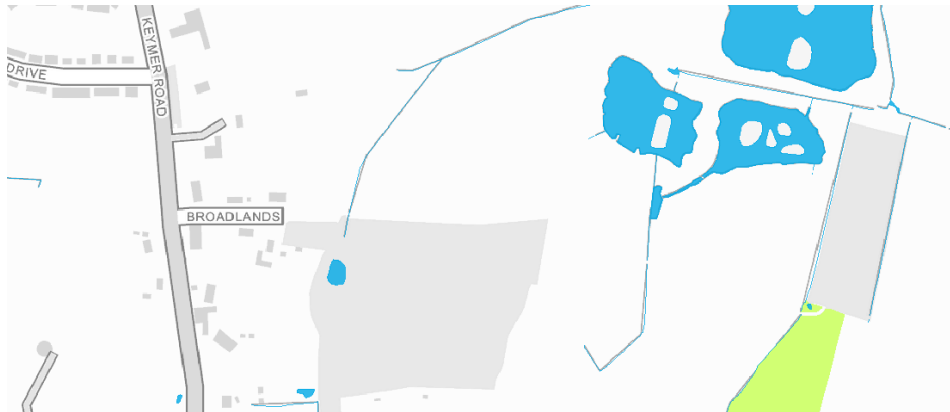
3-2 **OVERVIEW OF SITE**

- 3.7 Site SA13 contains an ancient established field pattern with hedgerows that contain many large mature trees. The site is directly adjacent to and clearly visible from the nearby South Downs National Park. A stream, which is one of the sources of the River Adur, runs through the site, firstly from south to north near the western boundary and then across the centre of the site from west to east through a low-lying meadow which floods frequently.
- 3.8 The fields that make up Site SA13 form a small area of rare Sussex pasture that has not been ploughed or subjected to selective herbicides for a very long time. It harbours rare plant species including wild orchids and it forms the habitat for a large variety of wild animals, reptiles and birds.
- 3.9 The site is protected by law as is it within Mid Sussex's own Countryside Area of Development Restraint. It contains vegetation with legal protection, as evidenced by the Enforcement action taken by MSDC against Thakeham Homes for illegal damage to hedgerows in 2015, and Thakeham Homes subsequent loss of their Appeal case³⁶.
- 3.10 In addition, the rich and varied wildlife it contains is also protected, both by UK and International Law. While it is accepted that when protected species of animals and plants are found within a site that is wanted for development, it may sometimes be possible to deal with this either by an approved method of relocation or by adapting the plans to ensure the protected species can live in harmony with the new development. In other cases, however, this is not possible and this is especially the case where the site is effectively surrounded by existing development and there is no natural escape route for wildlife. This applies to Site SA13 – the only way to comply with the law and protect the wildlife is designate this site unsuitable for development.

³⁵ Mid Sussex District Plan, DP38, page 93

³⁶ MSDC case reference AP/15/0012 & EF/15/0019

- 3.11 As well as its exceptional biodiversity, the site is crossed by a stream that is the source of important local river, The Adur – see plan below. The stream runs through the lower meadow at the southern end of the site, which is boggy from autumn to late spring, and floods after any heavy rainfall.



- 3.12 The soil in this part of Sussex is heavy clay and this together with the boggy landscape offer a home to a different variety of plants and animal life from that of the adjacent chalk South Downs.
- 3.13 This wet landscape is unsuitable for building, or for the “play area” that is proposed for the dampest central and lowest lying part of the site. What would happen to the water run-off from so many houses, patios, drives and roads? What effect would this have on existing properties, as well as the new build properties and land?
- 3.14 In addition, because of the artesian effect of the Downs it is almost certain that there are underground streams in these fields that could be affected by building foundations (British Geological Survey – Wells and Springs of Sussex). This potential problem has not been investigated.

3-3 STATUTORY REQUIREMENT ON BIODIVERSITY

- 3.15 The sites selection process is a requirement for updating the Mid Sussex District Plan. It should be remembered that the primary document that governs the planning and development process is the National Planning Policy Framework (NPPF). In its introduction it states that:
- “The framework must be taken into account in preparing the development plan [which in this case is the Mid Sussex District Plan] and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements..”*
- And earlier in the same paragraph states:
- “Planning decisions should be determined in accordance with the development plan unless material considerations determine otherwise...”³⁷*

³⁷ National Planning Policy Framework, Feb 2019, para 2, page 4

3.16 Whilst the current site selection process is not itself making final planning decisions, it is the precursor to that and those sites selected will then have a presumption in favour of approval when an application for development is made. This means the site selection process must take into consideration the requirements and policies of the local development plan which, in this case, is the Mid Sussex District Plan.

3.17 The existing Mid Sussex District Plan has a clear and unequivocal policy, DP38 – Biodiversity, relating to the protection of biodiversity in the planning process. The stated principal objective of the policy is as follows:

To protect valued landscapes for their visual, historical and biodiversity qualities and To create and maintain easily accessible green infrastructure, green corridors³⁸

Most importantly, it is stated that:

Biodiversity will be protected and enhanced by ensuring development:

- *Contributes and takes opportunities to improve, enhance, manage and restore biodiversity and green infrastructure, so that there is a net gain in biodiversity, including through creating new designated sites and locally relevant habitats, and incorporating biodiversity features within developments; and*
- ***Protects existing biodiversity, so that there is no net loss of biodiversity.*** *Appropriate measures should be taken to avoid and reduce disturbance to sensitive habitats and species. Unavoidable damage to biodiversity must be offset through ecological enhancements and mitigation measures (or compensation measures in exceptional circumstances); and*
- *Minimises habitat and species fragmentation and maximises opportunities to enhance and restore ecological corridors to connect natural habitats and increase coherence and resilience; and*
- *Promotes the restoration, management and expansion of priority habitats in the District; and*
- *Avoids damage to, protects and enhances the special characteristics of internationally designated Special Protection Areas, Special Areas of Conservation; nationally designated Sites of Special Scientific Interest, Areas of Outstanding Natural Beauty; and locally designated Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodland or to other areas identified as being of nature conservation or geological interest, including wildlife corridors, aged or veteran trees, Biodiversity Opportunity Areas, and Nature Improvement Areas.*³⁹

3-4 PROTECTED WILDLIFE IN SITE SA13

3.18 There is indisputable evidence that many protected and highly valued species inhabit Site SA13 either throughout the year or during their particular migratory season. It is known that some private ecological surveys have been made on this land over the last 20 years. Whilst the detailed results of these have not been made publicly available, conversations with those carrying out the surveys as well as people living directly adjacent to the site have confirmed that the protected species listed below have been found to inhabit the area.

³⁸ Mid Sussex District Plan, DP38, page 93

³⁹ Ibid.

3.19 However, of much greater importance (and providing much more 'weight' to this submission) is the list of species detailed below and verified by the Sussex Biodiversity Records Centre as being found within the Site. SOFLAG is very grateful to the Sussex Biodiversity Records Centre for providing their report on Site SA13 (Report No. SxBRC/19/633) from which the following information has been taken. It should also be noted that the non-inclusion of any species does not actually mean they are not present in the site. For example, it is known that there are adders present within the site but these have yet to be recorded formally.

3.20 Every one of the following species has been shown to be present at Site SA13 by the Sussex Biodiversity Records Centre. Each of the species listed is either protected under International or National legislation as detailed. Those protected by international legislation are shown in **bold type**. The remaining legislation is UK law.

3.21	Species	Legal Protection
	Bats	
	<ul style="list-style-type: none"> • Chiroptera 	Hab Dir A2 NP, Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b, s9.4c/s9.5a, NERC S41
	<ul style="list-style-type: none"> • Serotine 	Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b, s9.4c/s9.5a
	<ul style="list-style-type: none"> • Myotis 	Hab Dir A2 NP , Hab Dir A4, Hab Reg Sch2, WCA Sch5 s9.4b/s9.4c/s9.5a, NERC S41
	<ul style="list-style-type: none"> • Noctule 	Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b/s9.4c/s9.5a, NERC S41
	<ul style="list-style-type: none"> • Common Pipistrelle 	Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b, s9.4c/s9.5a, NERC S41
	<ul style="list-style-type: none"> • Soprano Pipistrelle 	Hab Dir A4 , Hab Reg Sch2, WCA Sch5, s9.4b, s9.4c/s9.5a, NERC S41
	<ul style="list-style-type: none"> • Brown Long Eared 	Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b, s9.4c/s9.5a, NERC S41
	Amphibians	
	<ul style="list-style-type: none"> • Common Toads 	WCA Sch5 s9.5a, NERC S41, UK BAP Priority
	<ul style="list-style-type: none"> • Palmate Newts 	WCA Sch5 s9.5a
	<ul style="list-style-type: none"> • Smooth Newts 	WCA Sch5 s9.5a
	<ul style="list-style-type: none"> • Common Frogs 	WCA Sch5 s9.5a
	<ul style="list-style-type: none"> • Great Crested Newts 	Hab Dir A2 NP, Hab Dir A4 , Hab Reg Sch2, WCA Sch5 s9.4b/s9.4c/s9.5a, NERC S41, UK BAP Priority
	Butterflies & Moths	
	<ul style="list-style-type: none"> • Brown Hairstreaks 	WCA Sch5 s9.5a, NERC S41, UK BAP Priority, RedList GB post2001 VU
	<ul style="list-style-type: none"> • Large Clothes 	Sussex Rare
	Mammals	
	<ul style="list-style-type: none"> • West European Hedgehogs 	NERC S41, UK BAP Priority UK, RedList GB post2001 VU

- **Hazel Dormice**
s9.4b/s9.4c/s9.5a/, NERC s41

Hab Dir A4, Hab Reg Sch2, WCA Sch5,

Reptiles

- Slow Worms WCA Sch5 s9.1/s9.1 kill, s9.5a, NERC s41
- Grass Snakes WCA Sch5 s9.1/s9.1 kill, s9.5a, NERC s41
- Common Lizards WCA Sch5 s9.1/s9.1 kill, s9.5a, NERC s41

Birds

- **Little Egret** **Birds Dir A1**
- **Bittern** **Birds Dir A1**, WCA Sch1 Pt1, NERC S41
- **Honey-Buzzard** **Birds Dir A1**, WCA Sch1 Pt1
- **Red Kite** **Birds Dir A1**, WCA Sch1 Pt1
- **Osprey** **Birds Dir A1**, WCA Sch1 Pt1
- **Merlin Falcon** **Birds Dir A1**, WCA Sch1 Pt1
- **Peregrine Falcon** **Birds Dir A1**, WCA Sch1 Pt1
- Lapwing NERC S41
- Green Sandpiper WCA Sch1 Pt1
- Herring Gull NERC S41
- Turtle Dove NERC S41
- Cuckoo NERC s41
- Barn Owl WCA Sch1 Pt1
- **Kingfisher** **Birds Dir A1**, WCA Sch1 Pt1
- Lesser Spotted Woodpecker NERC S41
- Grasshopper Warbler NERC S41
- Skylark NERC S41
- Dunnock NERC S41
- Black Redstart WCA Sch1 Pt
- Ring Ouzel NERC S41
- Fieldfare WCA Sch1 Pt
- Song Thrush NERC S41
- Redwing WCA Sch1 Pt
- Willow Tit NERC S41
- Marsh Tit NERC S41
- Starling NERC S41
- House Sparrow NERC S41
- Tree Sparrow NERC S41
- Lesser Redpoll NERC S41
- Linnet NERC S41
- Common Crossbill WCA Sch1 Pt
- Bullfinch NERC S41
- Hawfinch NERC S41
- Yellowhammer NERC S41
- Reed Bunting NERC S41
- Corn Bunting NERC S41

3.22

In addition to the above listed birds that are internationally or nationally protected there are many other species, known to inhabit the site that are designated with a "notable status" including "Bird Red", "Bird Amber", "Notable Bird" and/or UK BAP Priority. These include:

- Mute Swan
- Greylag Goose
- Mallard
- Pintail
- Tufted Duck
- Little Grebe
- Tawny Owl
- Swift
- Green Woodpecker
- Willow Warbler
- Swallow
- House Martin
- Meadow Pipit
- Grey Wagtail
- Kestrel
- Common Sandpiper
- Snipe
- Woodcock
- Turnstone
- Common Gull
- Lesser Black-backed Gull
- Black Headed Gull
- Stock Dove
- Nightingale
- Redstart
- Mistle Thrush
- Whitethroat

3.23

Finally, even though they are not technically classed as protected, there are several other species of birds that have been recently recorded by the Sussex Biodiversity Records Centre as being found on the site and these include:

- Black-cheeked lovebird
- Canada Goose
- Goosander
- Mandarin Duck
- Grey Heron
- Pheasant
- Collared Dove
- Little Owl
- Great Spotted Woodpecker
- Sedge Warbler
- Reed Warbler
- White/Pied Wagtail
- Pied Wagtail
- Waxwing
- Sparrowhawk
- Buzzard
- Moorhen
- Water Rail
- Coot
- Feral Pigeon
- Wood Pigeon
- Wren
- Robin
- Stonechat
- Blackbird
- Blackcap
- Garden Warbler
- Lesser Whitethroat
- Goldcrest
- Long-tailed Tit
- Blue Tit
- Great Tit
- Coal Tit
- Nuthatch
- Tree Creeper
- Jay
- Magpie
- Jackdaw
- Rook
- Carrion Crow
- Greenfinch
- Siskin
- Chaffinch
- Goldfinch

3.24 To destroy this precious habitat that is home to more than 100 different species of birds when there are other more suitable sites for development available in the district would be an ecological disaster.

3.25 As well as the above listed protected species the fields are also home to a diverse variety of wildlife which enhance its value as an ecological sanctuary. The species include:

- Foxes
- Deer
- Squirrels
- Rabbits
- Voles
- A wide variety of butterflies & moths

3-5 IRREPLACEABLE HISTORIC FIELD SYSTEM

3.26 The site currently consists of an ancient field system that has remained unchanged for at least 150 years as demonstrated in the three images shown below:

3.27 **Map published 1879 from survey taken in 1873**



Aerial photograph taken in 1952



Recent Google Earth image



- 3.28 The historic and ecological value of the central field, which will be lost to create access across the site if SA13 is allocated, was formally recorded in 2009 in the Folders Lane Field Survey attached at Appendix 3 B.
This will be lost forever if the development is allowed to go ahead.

3-6 TREES AND VEGETATION

- 3.29 The Sussex Biodiversity Records Centre has confirmed that the following list of plants that are all on the International Union for the Conservation of Nature Red List have been found in the field system making up Site SA13.

- | | |
|--------------------|------------------------|
| • Quaking Grass | • Marsh Pennywort |
| • Box | • Lesser Spearwort |
| • Bell Heather | • Creeping Willow |
| • Dwarf Sponge | • Devil's-bit Scabious |
| • Wild Strawberry | • Strawberry Clover |
| • Dyer's Greenweed | |

There is no possibility of retaining these plants in their natural environment if the fields are turned into a housing estate.

- 3.30 In addition, there are many very old and healthy trees in the hedgerows around and within the site. Several of these have already been cut down by one of the potential developers. All of these trees are visible from the South Downs National Park and go a long way towards protecting and enhancing the views from the ridge between the Jack and Jill Windmills and Ditchling Beacon. There is no question that if development were allowed in the fields these trees would be threatened.



Ecological Data Search SxBRC/19/633 - Summary Report

An ecological data search was carried out for land at Site SA13, Burgess Hill on behalf of Jerry Batte (South of Folders Lane Action Group) on 05/11/2019.

The following datasets were consulted for this report:

	Requested	Radius/buffer size
Designated sites, habitats & ownership maps	Yes	0.5km
Protected, designated and invasive species	Yes	0.5km

Summary of results

Sites and habitats

Statutory sites	1 National Park
Non-statutory sites	None present
Section 41 habitats	1 habitat
Ancient and/or ghyll woodland	None present

Protected and designated species

International designations	17 species	47 records
National designations	55 species	516 records
Other designations	81 species	781 records
Total	90 species	830 records
Invasive non-native	16 species	64 records

The report is compiled using data held by Sussex Biodiversity Record Centre (SxBRC) at the time of the request. SxBRC does not hold comprehensive species data for all areas. Even where data are held, a lack of records for a species in a defined geographical area does not necessarily mean that the species does not occur there – the area may simply not have been surveyed.

This summary page may be published.
The full report and maps may not be published or otherwise shared.

The data search report is valid until 05/11/2020 for the site named above.

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Survey of field about 200m south of Folders Lane

Date of Current Survey 3 August 2009

Location of field Approx. 200m south of Folders Lane in the High Chimneys
(previously Woodwards) area of Burgess Hill, West Sussex.
Short, eastern boundary coterminous with Wintons.
Field centre OS grid ref. TQ321178

Size of field Area ca. 0.15 hectare. Overall dimensions ca. 350m x 50m.

Background

The conservation significance of this field was first identified in 1996 during a Phase 1 Habitat Survey of Burgess Hill conducted by a team from the Environmental Issues Forum of Burgess Hill Town Council. In Target Note F7 of the survey map this field was described as "Grassland with anthills; tendency to wetness. Variety of trees and herbaceous species." The standard mapping colour codes used on the map indicate unimproved neutral grassland (code B2.1) with a boundary rich in native trees and shrubs (J2.3.1), a dry ditch (J2.6) crossing the field and an eastern area of marsh/marshy grassland (B5). The detailed target notes (20 to 25 July 1996) by the surveyor (John Newton) were "Neutral grassland (possibly unimproved), probably prone to wetness, particularly towards northeast end which finishes in small dried up pond (with bed of dead leaves). Small trees and shrubs encroaching from hedges. Ground with many hummocks (some are ant-hills). Long grasses, soft rush, small fleabane, patch of iris, sedge, scattered betony, large area of lesser stitchwort to northeast. Thistles at southwest. Butterflies, skippers, burnet moth. Southwest boundary is dry ditch with umbellifers and nettles. *THIS AREA MERITS FURTHER STUDY.*"

The following information was gathered during the current survey, and extended a short distance westwards beyond the dry ditch mentioned above.

Description of field

Narrow field running roughly east-west. No easy access from nearby roads. An almost-dry drainage ditch runs south-west to north-east (demarcating the western third of the field), then runs eastwards (carrying water) along northern boundary to Wintons (presumably contributing to the source of the River Adur). Field surface uneven, hummocky. Some of hummocks are anthills. Small trees, bushes, brambles and dog-rose encroaching from field margins. Field damp in places. Almost certainly standing water in places in wet winters. Water table is probably fairly close to the surface throughout the year.

Flora

Trees and bushes along margins include pedunculate oak, blackthorn, field maple, hornbeam, goat willow.

Herbaceous plants include sedge (*Carex* sp.), , rush (*Juncus* sp. **w**), nettle, dog's mercury (*Mercurialis perennis*), yellow iris (*Iris pseudacorus* **w**), betony (*Betonica officinalis*), sneezewort (*Achillea ptarmica* **w, u**), bird's-foot-trefoil (*Lotus* sp.), creeping cinquefoil (*Potentilla reptans*), purple-loosestrife (*Lythrum salicaria* **w**), tufted vetch (*Vicia cracca*), devil's-bit scabious (*Succisa pratensis* **w, u**), common fleabane (*Pulicaria dysenterica* **w**) and Creeping thistle (*Cirsium arvense*).

w - a species associated with damp or wet conditions.

u - a species seldom found outside unimproved grassland or indicative of a long period of uninterrupted grassland management

Fauna

Butterflies include common blue (abundant), painted lady, gatekeeper.

Overall impression

This field appears to be unimproved neutral grassland. The hummocks and clear signs of dampness suggest that the surface has been little disturbed by agricultural practices (apart from mowing and grazing). The presence of certain species (indicated by "u") tends to confirm this view. The subject surveyed may be a very old meadow.

Recommendation


This field requires a full survey by a team of trained botanists. It merits some degree of protection from development.

Author John Newton, BSc Zoology (Hons), FRES

Location of Field



View looking east
(towards damp area)

	<p>View looking west (note hummocks)</p>
	
	<p>Dried out pond near north boundary (devil's-bit scabious in foreground)</p>

SECTION 4

OPPOSITION TO SITES SA12 / SA13 FROM LOCAL AUTHORITIES AND STATUTORY BODIES MAKES THEM UNDELIVERABLE

4-1 Opposition from local authorities

4-2 Opposition from statutory bodies

4-1 SIGNIFICANT OPPOSITION TO SITES SA12 & SA13 FROM NEIGHBOURING LOCAL AUTHORITIES WAS RAISED AT REGULATION 18 STAGE

But MSDC reported “No opposition from neighbouring authorities” at a subsequent Council Committee meeting which was not true.

4.1 Among more than 800 objections to the allocation of Sites SA12 & SA13 submitted during the Regulation 18 Consultation in 2019 were objections from local authorities including:

- Burgess Hill Town Council
- Haywards Heath Town Council
- Lewes & Eastbourne Borough Council
- Ditchling Parish Council
- Hassocks Parish Council

4.2 **Burgess Hill Town Council** objection included the following statements:

- “There are a significant number of problems with this site which make it unsustainable⁴⁰
- “The sites contravene District Plan policies DP7, DP12, DP13, DP18, DP20, DP21, DP26, DP37, DP38, and Neighbourhood Plan core objective 5, and policy H3”⁴¹
- “Of great concern to both the Council and residents is the amount of traffic congestion which will result from developing this area to the degree anticipated. The mini roundabout at the junction of Keymer Road and Junction road is already congested and previous developments of the area south of Folders Lane have identified roundabouts at Folders lane and Keymer road as at or near capacity. The traffic consultants have not considered this junction as part of their assessment on the impact of the proposals. The only mention of

⁴⁰ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 399

⁴¹ Ibid.

east Burgess Hill was their suggestion to convert Hoadleys Corner roundabout to a set of traffic lights, which would result in a reduced traffic flow and increased pollution”⁴²

4.3 **Haywards Heath Town Council** objected due to the significant north-south traffic movements between Haywards Heath and Burgess Hill generated by the increase in housing numbers. Their comments are attached at Appendix 4 A

4.4 **Lewes and Eastbourne Borough Council** objected with concerns about the ability of the road network to cope with additional housing in this area, stating:

- “in relation to Policies SA12, SA13 and SA21, the District Council wishes to have the confidence that the transport impacts arising from the proposed housing growth can be satisfactorily accommodated by the highway network within Lewes District. In particular, the timing, funding and feasibility of any necessary mitigation measures need to be fully understood before we are convinced that Policies SA12, SA13 and SA21 are sound”⁴³

4.5 **Ditchling Parish Council** objected, with reasons including:

- The development would cause further traffic implications into an already struggling road infrastructure system
- Development on these sites would cause irreparable harm to the setting of the South Downs National Park, including destroying habitats for many protected wildlife species such as adders, bats, cuckoos, barn owls 1 great crested newts and slow worms
- The sites contravene Policy CONS 7 of the Ditchling, Streat & Westmeston Neighbourhood Plan — Protect important gaps between settlements

The Ditchling Parish Council letter of objection is attached at Appendix 4 B.

4.6 **Hassocks Parish Council** objected citing the inadequacies of the SYSTRA transport study, which did not assess the inevitable negative impact on all the affected parts of local road network.

The Hassocks Parish Council objection is attached at Appendix 4 C

4.7 MSDC sought to play down, if not actually conceal the level of opposition from neighbouring authorities to Sites SA12 & SA13. This incident is dealt with further in Section 5. At MSDC Scrutiny Committee for Housing, Planning & Economic Growth on 22 January 2020, Officer Andrew Marsh stated

*"Objections were predominantly from residents to the proposed sites" [and there were] "indeed no objections from neighbouring authorities"*⁴⁴

This was untrue, and misled the Councillors who were voting on whether to accept the proposed sites at that meeting, making the process unsound.

4.8 As well as these strong objections to sites SA12 / 13 made by the neighbouring authorities, the following also had various objection to other parts of the Site Allocations DPD:

- Wealden District Council objected to SA20 / SA26
- Horsham District Council & West Sussex County Council objected to SA9

⁴² Ibid. page 401

⁴³ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 397

⁴⁴ Printed Minutes of Meeting, Section 7, page 3

- Felbridge Parish Council & East Grinstead Town Council also made objections

4.9 An objection was also made by **East Sussex County Council** to Site SA12 when Jones Homes put in their (now withdrawn) application for 43 houses in January 2019 (application ref 19/0276). In recommending the application for refusal, County Landscape Architect Virginia Pullen concluded:

*"it would have an unacceptable impact on local landscape character and views. It is acknowledged that the principal of development to the south of Folders Lane has been established due to the appeal decision for the neighbouring site. The scale and extent of the development proposed in this application would however make it difficult to properly mitigate the impact on local landscape character and views. The proposed layout would compromise the requirement to establish a well-defined settlement boundary to the east of the site."*⁴⁵

4.10 The ESCC objection explained how developing Site SA12, as proposed by the Site Allocations DPD, would contravene the NPPF:

"The proposal would not comply with NPPF Section 15 policies for conserving and enhancing the natural environment. The proposal would not comply with Paragraph 170 which requires planning policies and decisions to contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan).*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;"*⁴⁶

4.11 As none of the concerns raised have been adequately addressed – perhaps because MSDC chose to suggest there were "no objections" from neighbouring authorities - these objections are likely to be repeated at this Regulation 19 stage, and indeed for any subsequent planning applications. This level of objection makes Sites SA12 & SA13 unsuitable and undeliverable.

4-2 SIGNIFICANT OPPOSITION TO THE ALLOCATION OF SITES SA12 & SA13 FROM STATUTORY BODIES DEMONSTRATING THEIR UNSUITABILITY & UNDELIVERABILITY

4.12 Objections to the selection of Sites SA12 & SA13 were made by:

- South Downs National Park Authority
- Sussex Wildlife Trust
- Woodland Flora & Fauna Group

⁴⁵ Objection to application 19/0276, 19 April 2019 <https://padocs.midsussex.gov.uk/PublicDocuments/00638051.pdf>

⁴⁶ Ibid.

With additional objections to Biodiversity and Air Quality provisions in the Site Allocations DPD by

- Natural England
- CPRE

- 4.13 **South Downs National Park Authority** demonstrated their opposition to Site SA12 when objecting to the now withdrawn planning application for the site – discussed in Section 1 para 1.62. Their objections to the allocation of Sites SA12 & SA13 were raised at Regulation 18 Consultation:
- this is a highly sensitive site likely to have high ecological value and whose character is shared with land in the SDNP
 - the proposed allocation would erode the rural buffer between Burgess Hill and the SDNP, which is likely to be harmful to the special qualities and landscape character of the setting of the SDNP
 - the potential for increased traffic in and through the village of Ditchling, and other parts of the SDNP, and its impact on tranquillity
 - the proposed allocations would erode the rural buffer between Burgess Hill and the SDNP. This is likely to be harmful to the special qualities and landscape character of the setting of the SDNP
 - in May 2016 the SDNP became an International Dark Sky Reserve (IDSR). Lighting as part of development of these sites has the potential for significant effects on the dark skies of the Reserve, particularly as a result of increases in light spill/ambient lighting⁴⁷

Their continuing concern is highlighted in the Statement of Common Ground dated 7 August 2020 – see Section 1 para 1.65

- 4.14 **Sussex Wildlife Trust** is the acknowledged expert for the Mid Sussex area, and their Sussex Biodiversity Records Centre has provided a comprehensive list of the many protected species of flora and fauna that would be lost (with no prospect of adequate mitigation) if Sites SA12 & SA13 remain allocated for housing. Their objection is at Appendix 4 D, but can be summarised in this quote:

*SWT objects to the allocation of this greenfield site. It is not justified by MSDC's own evidence base and does not represent sustainable development.*⁴⁸

- 4.15 The **Woodland Flora & Fauna Group** also objected to the site allocation, raising the issue that any mitigation that may be proposed to compensate for the loss of this valuable greenfield site rarely works:

*"However, many compensatory measures like wildlife corridors etc. the development includes, our experience is that the close proximity of human habitation renders them mostly ineffective and offers very few long-term survival prospects for indigenous wildlife and flora due to human recreational activities."*⁴⁹

The full objection is at Appendix 4 E.

- 4.16 Objections were also made to the wider Site Allocations DPD that have direct implications on the suitability of Sites SA12 & SA13. **Natural England** stressed the requirement for biodiversity net gain

⁴⁷ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 398

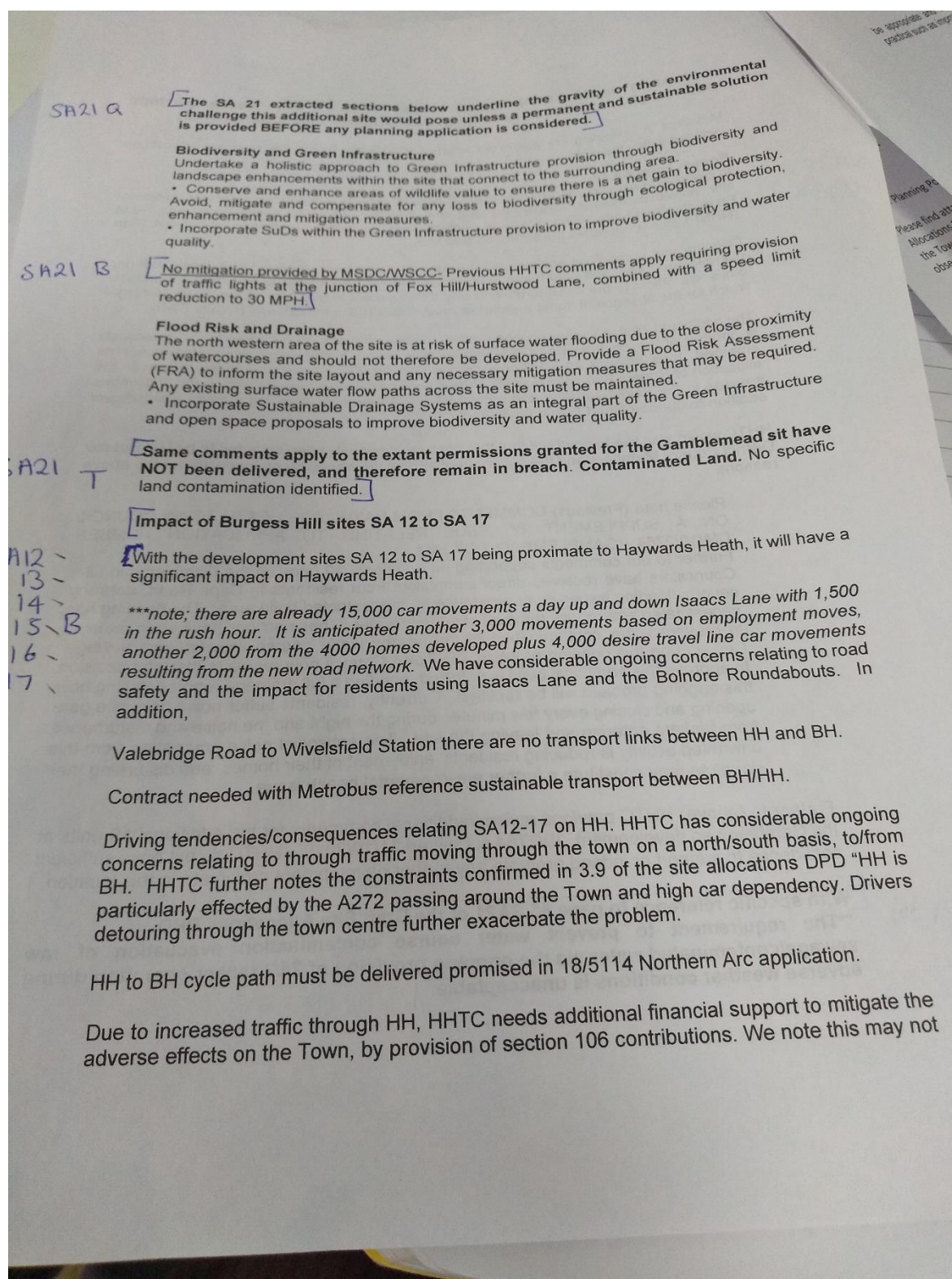
⁴⁸ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 397

⁴⁹ Site Allocations DPD – Regulation 18 9th October – 20th November 2019 Consultation Report, page 412

as a principle of development, and in their response MSDC committed to making this principle clearer. It is difficult to see how any development on the unique habitat at SA13 can ever comply with the principle of biodiversity net gain.

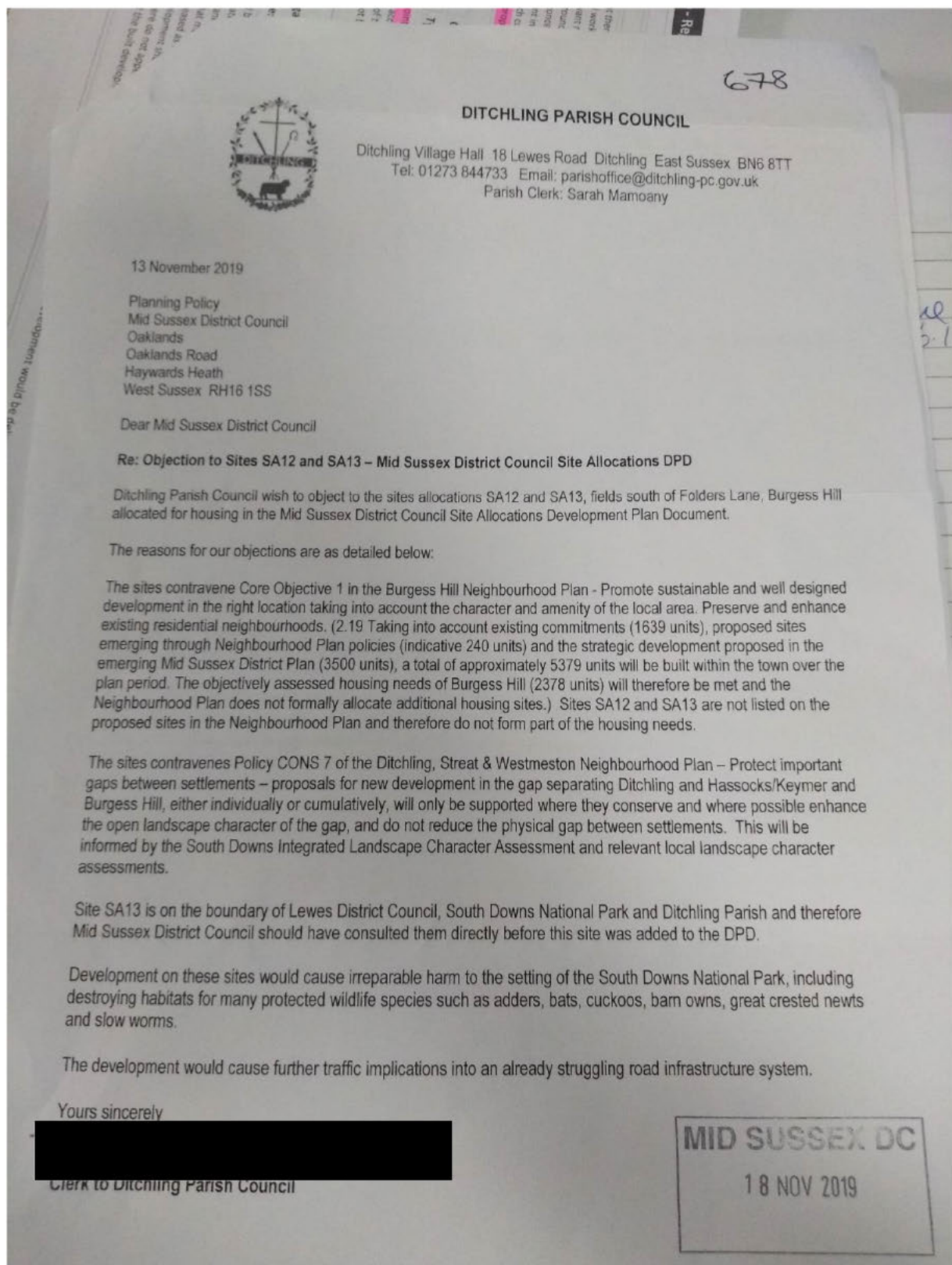
4.17 All these objections from local authorities, statutory bodies and expert groups demonstrate that Sites SA12 & SA13 are unsustainable, unsuitable and undeliverable.

Appendix 4 A



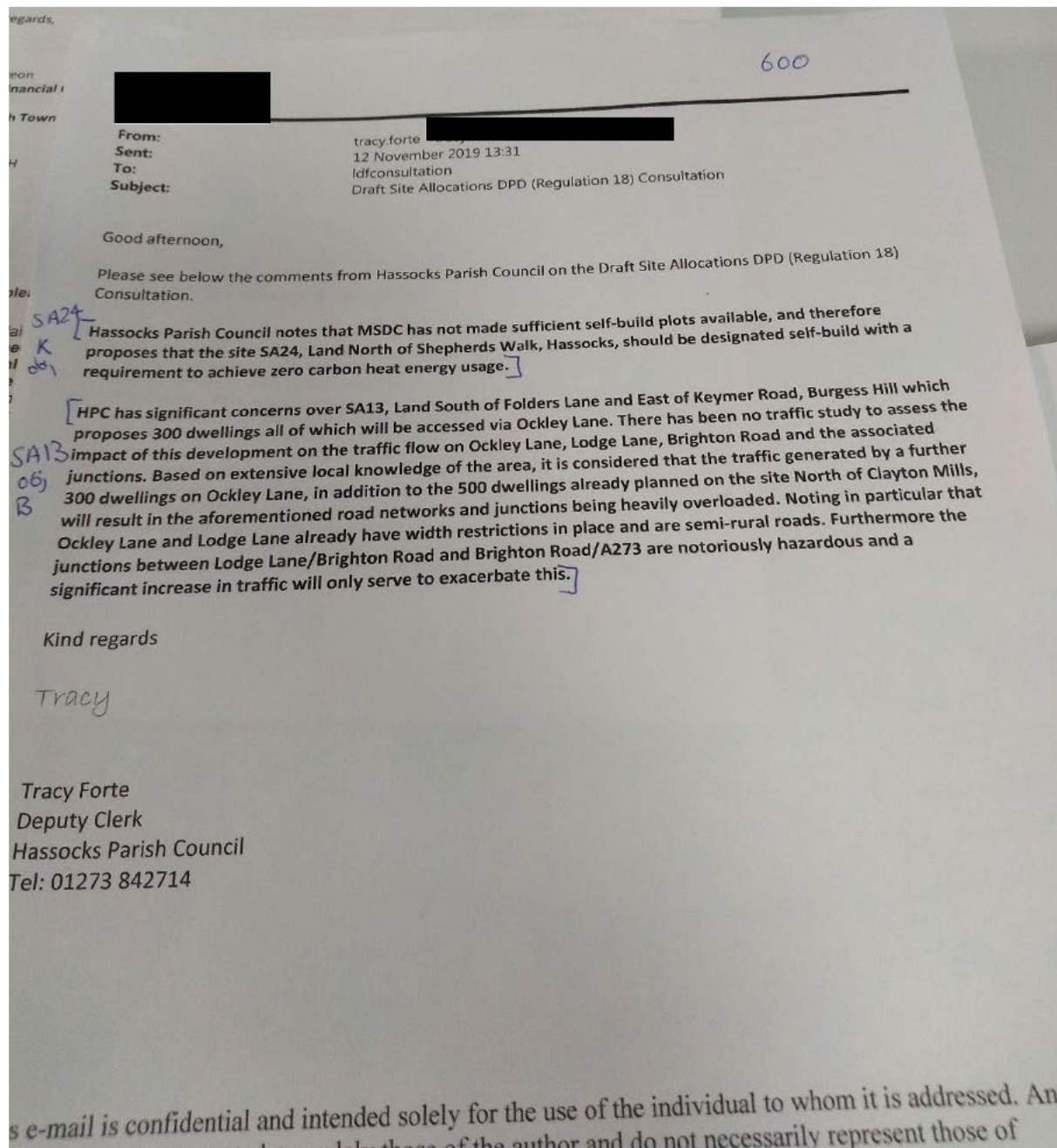
Objection by Haywards Heath Town Council

Appendix 4 B



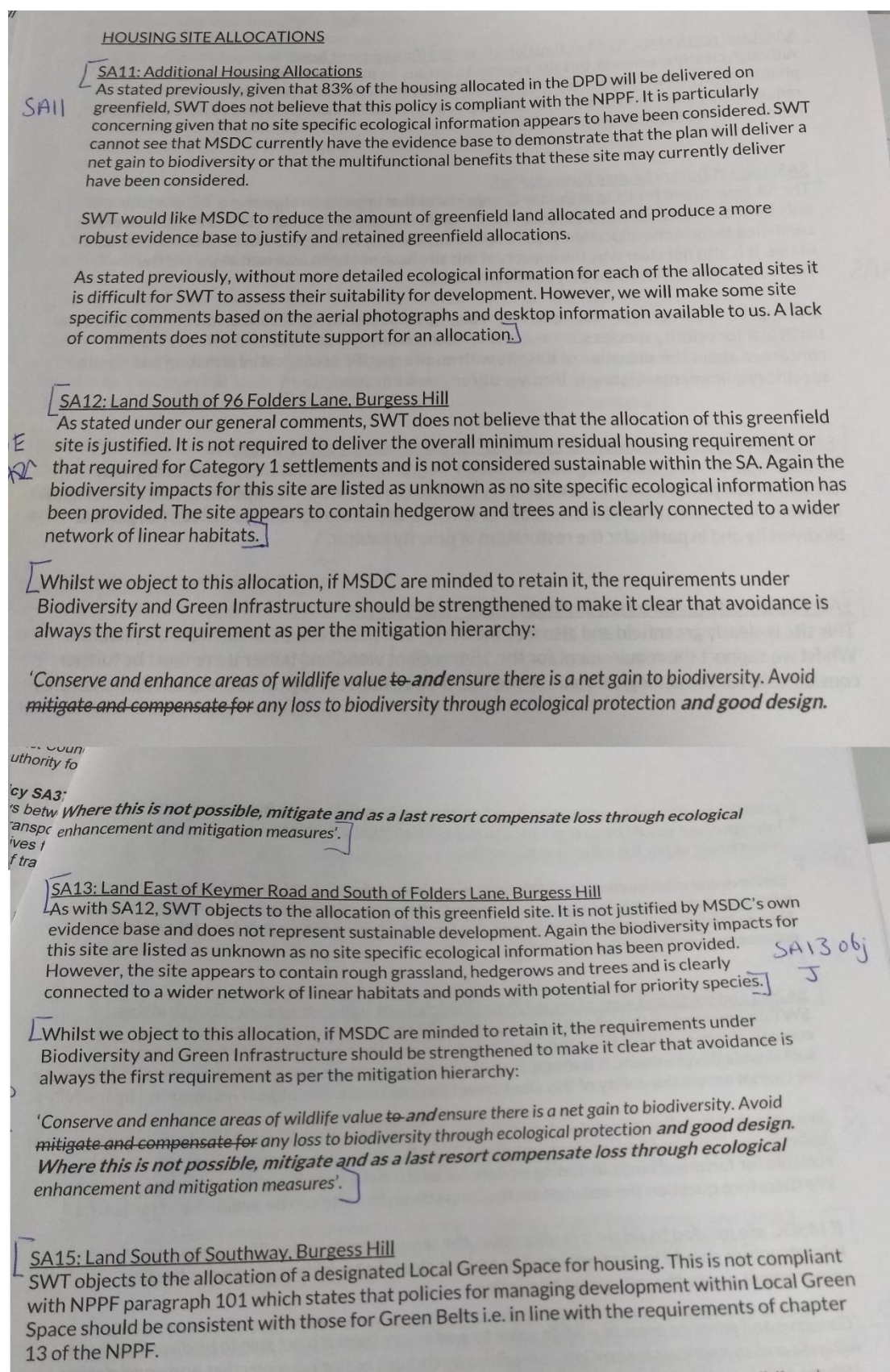
Objection from Ditchling Parish Council

Appendix 4 C



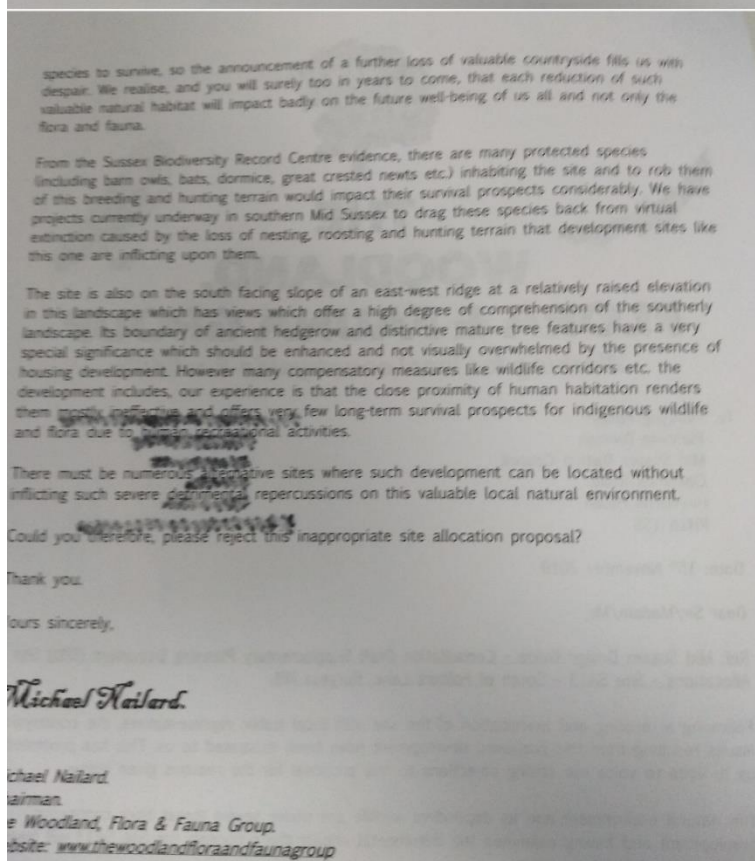
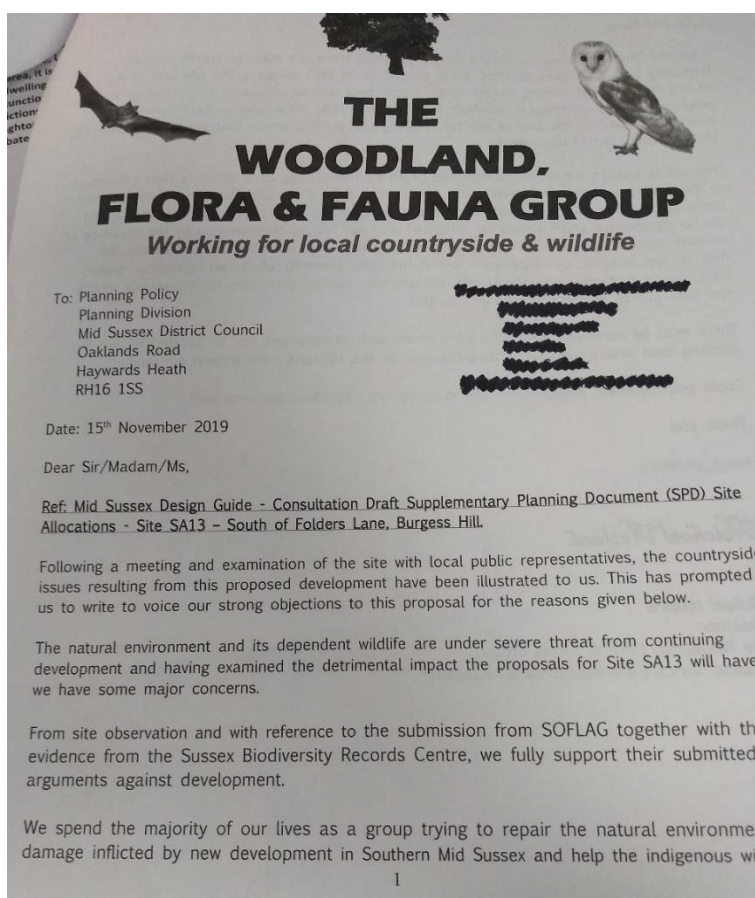
Objection from Hassocks Parish Council

Appendix 4 D



Extract from objection by Sussex Wildlife Trust

Appendix 4 E



SECTION 5

THE SITE SELECTION PROCESS WAS ILLEGITIMATE AND THE DPD IS THEREFORE UNSOUND.

In preparing the DPD the site selection process, particularly with reference to sites SA12 & SA13, was not carried out in accordance with planning policy nor within the legal framework, making the DPD unsound.

- 5-1 MSDC relied on a flawed Transport study containing errors and omissions that did not produce an accurate assessment of the implications of Sites SA12 & SA13
 - 5-2 Site selection criteria were applied inconsistently to different sites during the process, leading to incorrect decision making
 - 5-3 The Site Allocations DPD Sustainability appraisal contains errors & inconsistencies and is unsound
 - 5-4 MSDC mishandled the Regulation 18 Consultation with objections and evidence omitted at a crucial stage in the process
 - 5-5 MSDC officers and Councillors misled Council and Committees at key decision-making meetings
 - 5-6 MSDC applied the housing buffer incorrectly, leading to unsound decision making
 - 5-7 A serious cloud remains over the final site selection shortlisting decision
-

5-1 MSDC RELIED ON FLAWED TRANSPORT STUDY CONTAINING ERRORS AND OMISSIONS THAT DID NOT PRODUCE AN ACCURATE ASSESSMENT OF THE IMPLICATIONS OF SITES SA12 & SA13

MSDC continue to rely on the inaccurate and misleading SYSTRA transport study to “prove” that these sites won’t exacerbate severe traffic problems in the local area, despite other evidence to the contrary, making the selection process unsound

- 5.1 As already detailed in Section 1-2 of this report, Sites SA12 and SA13 are unsuitable for inclusion in the Draft Site Allocations DPD. To develop them would lead to further and unacceptable traffic gridlock in Burgess Hill, stemming from the site access onto Folders Lane and Keymer Road. MSDC rely totally on the findings of their SYSTRA Transport Study to counter this finding. However, the SYSTRA study is fatally flawed, does not comply with the legally binding NPPF and cannot be relied upon.

- 5.2 Questions have been raised with MSDC officers and councillors about the veracity of the SYSTRA study and its findings since it was published at Regulation 18 stage. At Scrutiny Committee for Housing, Planning and Economic Growth on 22nd January 2020 Councillor Janice Henwood asked: *"How will this assessment address the east-west, north-south traffic flows in BH, with particular reference to the roundabouts at Keymer Rd/ Folders Lane?"*

Assistant Chief-Executive Judy Holmes read out a written response which included "The study concludes that the junctions at Folders Lane and Keymer Road, even without any mitigation, are not identified as being severely impacted by the site allocations DPD."

In fact, in the Regulation 18 version of the SYSTRA study, which was the only version in use at this point, the junction of Folders Lane and Keymer Road was not even mentioned.

- 5.3 SOFLAG engaged expert consultant GTA Civils to examine the SYSTRA study who found several key flaws with it. GTA Civils produced a comprehensive report which accompanies this submission, with the summary attached at Appendix 1 C

- 5.4 The key faults found with the SYSTRA study included:

- concerns about the criteria adopted to define 'severe' and 'significant'
- the incremental impact approach used under-represents cumulative impacts with the Sites DPD allocations added
- incorrect use of Reference Case rather than Base Year in modelling
- no assessment of impacts on highway safety as required by NPPF para 109

- 5.5 SOFLAG wrote to Sally Blomfield, MSDC Divisional Leader for Planning and Economy on 15 May 2020 to ask 6 urgent questions based on the GTA Civils findings, and received the response 8 weeks later on 9 July. The answers provided to our questions were inadequate. The email of 15 May is at Appendix 5A, and the MSDC responses with an explanatory commentary for each response are at Appendix 5B.

- 5.6 It appears that MSDC's continued acceptance of the flawed SYSTRA traffic study is based on an assumption that new development "cannot be responsible for solving pre-existing conditions and issues" and agrees with the fact that it only considers *additional* "severe" impacts to be relevant.

This is like saying if a glass of water is full, pouring in more water can't make it fuller, therefore it has no impact on the "fullness".

- 5.7 West Sussex County Council also pointed out this fundamental flaw in methodology of the SYSTRA study in their response to the Regulation 18 Consultation, (in this case the A22 / A264 Felbridge Junction)

"The Mid Sussex Transport Study indicates that although the DPD site allocations do not result in a severe impact, this is because the junction is already overcapacity in the reference case" (See Appendix 5 C for the full WSCC critique of the study) The SYSTRA methodology is thus not fit for purpose.

- 5.8 MSDC Business Unit Leader for Planning Policy Andrew Marsh explained this at the Scrutiny Committee on 11 March 2020 where he said: *"What the transport model was doing, and what the results are showing which is that the additionality of the sites within the sites DPD, and that's all 22 housing sites, employment sites and the science and technology park don't cause a severe impact on that junction by virtue of the sites DPD itself"* In other words, MSDC knowingly pushing more traffic out onto local roads that are already

severely congested, because this situation is already so bad, that any worsening can't be measured in the model.

- 5.9 MSDC Officers have made false statements about the SYSTRA study at Committee Meetings. On 22nd January Divisional Leader for Planning and Economy Sally Blomfield described the study: *"it is a JOINT COMMISSION with the highways authority, West Sussex County Council (WSCC)"* MSDC Assistant Chief Executive Judy Holmes said of SYSTRA at that same committee: *"They were commissioned by MSDC AND WSCC to produce the Mid Sussex Transport study"* SOFLAG asked WSCC to see the relevant documents under FOI. WSCC responded on 9 February 2020, including the following statement: *"The Mid Sussex Transport Study was NOT jointly commissioned"*
- 5.10 Also, at the Committee Meeting on 22nd January, Sally Blomfield stated: *"We've had comments from the Department of Transport who are substantially content with it [the SYSTRA study]"* In response to an FOI request, MSDC stated on February 27th *"We have nothing on file from the Department of Transport related to the Systra study/methodology."* (See Appendix 5 D)
- 5.11 Answers provided under FOI contradict what MSDC officers stated at Committee Meetings. Misleading information was provided to Councillors making the process unsound.
- 5.12 SYSTRA relied on modelling rather than measuring of current traffic levels at key junctions. Evidence of traffic congestion missed by this approach is provided in Section 1, Appendix 1B. Highways England also flagged their concern with this approach in a document obtained by SOFLAG under FOI, stating that their modelling of a key M23 junction ***"the model indicates notably more capacity than is actually observed"***⁵⁰ MSDC have known the issues with the SYSTRA approach since 2018, therefore to rely upon it for the housing site allocations is unsound.
- 5.13 At the Scrutiny Committee for Housing, Planning and Economic Growth on March 11th during discussion of the viability of sites as determined by SYSTRA. Sally Blomfield, MSDC Divisional Leader for Planning and Economy made the following statement: *"I think we need to remember that there's a difference between plan making and deciding on a planning application. For plan making, the transport model that SYSTRA has prepared has demonstrated that these sites can be delivered. Obviously at planning application stage as is made clear in each of the site applications and is made clear within DP policies relating to transport impact, we would expect separate assessments to be undertaken"* This indicates that MSDC are aware that they are accepting a flawed model at plan making stage, which recommends sites that are likely to be refused, after further transport impact assessments are undertaken, at planning application stage. This is unsound.

⁵⁰ Email Highways England to MSDC, 22nd October 2018, attached at Appendix 5 D

5-2 SITE SELECTION CRITERIA WERE APPLIED INCONSISTENTLY TO DIFFERENT SITES DURING THE PROCESS, LEADING TO INCORRECT DECISION MAKING

Analysis of the Site Selection Proformas, shows errors in assessment and inconsistencies meaning Sites SA12 & SA13 were allocated following an unsound process, with a predetermined outcome

- 5.14 Site Selection Proformas published at Regulation 18 stage raise questions about how and why sites were chosen, particularly with reference to Sites SA12 & SA13. This can be illustrated by comparing the Proformas for Batchelors Farm (site reference 573) and what became part of Site SA13 (site reference 557).
- 5.15 While Site 557 was put forward, site 573 was not. This could be because, despite the proposed entrances to the sites being opposite each other on Keymer Road, and therefore equidistant from all facilities. In fact, most of site 557 being further away than the whole of 573, two out of three walking distances were assessed by MSDC rather differently⁵¹. Putting together the information from the two site proformas clearly illustrates this error:

Composite illustration showing comparative site locations:



Composite illustration showing comparative walking distances:

⁵¹ MSDC Site Selection Paper 3 Appendix B Housing October 2019, pages 58 (site 557) & 60 (site 573)

557	Land south of Folders Lane and east of Keymer Road,	573	Batchelors Farm, Keymer Road, Burgess Hill
Site Selection - Housing		Site Selection - Housing	
Part 3 - Sustainability / Access to Services		Part 3 - Sustainability / Access to Services	
14 - Education	Less Than 10 Minute Walk	14 - Education	10-15 Minute Walk
15 - Health	10-15 Minute Walk	15 - Health	10-15 Minute Walk
16 - Services	10-15 Minute Walk	16 - Services	15-20 Minute Walk
17 - Public Transport	Good	17 - Public Transport	Good

- 5.16 A further comparison between these two sites was made possible when MSDC refused an application to build 33 houses at Batchelors Farm (application reference 19/3334). Many of the reasons given for refusal apply equally to the fields south of Folders Lane (site SA13). Here are some examples from the council report (with our comments in parenthesis):

"The application site is located in designated countryside for which no special justification exists for the construction of a dwelling. (JUST LIKE SA13) The proposal is therefore considered contrary to policies DP12 and DP15 of the District Plan."

"the proposal is likely to result in a high-density cul-de-sac development which would not reflect the existing low-density ribbon development character of Keymer Road." (JUST LIKE THE PROPOSALS FOR SA13)

"the development would result in an urbanising impact upon a relatively un-developed landscape which contributes valuably to the semi-rural character of the area on the edge of Burgess Hill" (JUST LIKE SA13)

"the development is considered to represent a harmful form of development which would not maintain or enhance the quality of the rural and landscape character. The proposal is thereby contrary to policies DP12 and DP15 of the Mid Sussex District Plan and the aims of the NPPF." ⁵²(JUST LIKE SA13)

- 5.17 MSDC did not take into account the reasons for this refusal when deciding to leave Site SA13 in the DPD at Regulation 19 stage, therefore continuing to promote a site that they know is likely to fail at planning and is therefore undeliverable.

- 5.18 The inconsistency of site selection is further illustrated by comparing Sites SA12 & SA13 to a site that was not brought forward from the shortlist, Haywards Heath Golf Course (site reference 503). Using the Site Selection Proformas created by MSDC for the Regulation 18 stage and combining sites 557 and 738 together to create SA13, it is possible to make a direct comparison between the 3 sites. For clarity if the "score" in a category is the same the boxes are yellow, with "winners" green and "losers" red.

Category	Golf Club ID 503	SA13	SA12
AONB	N/A	N/A	N/A
Flood Risk	None	None	None
Ancient Woodland	Partial	None	None
SSSI/SNCI/LNR	Mitigation	None	None
Listed buildings	None	Yes	None
Conservation area	None	None	None

⁵² MSDC Application 19/3334 Decision Notice, 7 Feb 2020,
<https://padocs.midsussex.gov.uk/PublicDocuments/00691216.pdf>

Archeology	Moderate	Moderate	Moderate
Landscape	Medium	Medium	Medium
Trees / TPO	None	Low / Medium	Low / Medium
HIGHWAYS	NO RESULT	NO RESULT	NO RESULT
Local road access	Moderate	Moderate	Moderate
Deliverability	Developable	Developable	Developable
Infrastructure	Potential to improve	Capacity	Capacity
Education	Onsite	< 10 mins	10 – 15 mins
Health	Onsite	10 – 15 mins	> 20 mins
Services	< 10 mins	10 – 15 mins	> 20 mins
Public Transport	Poor	Good	Good

5.19 Not only is the Golf Club (ID 503) the “winner” in more categories, but the critical “highways” category is left blank – when even SYSTRA with their flawed study suggest that the impact of developing Sites SA12 and SA13 will be severe.

5.20 The words of MSDC’s own assessments further show the apparent inconsistency of not selecting Haywards Heath Golf Course:

“The site offers an opportunity to deliver sustainable growth at scale, potentially incorporating new services and facilities such as a new local centre, new school and additional healthcare facilities. Traffic and air quality modelling indicates that the site is unlikely to cause adverse effects on the road network... The SA finds that major positive effects are anticipated in relation to the social and economic SA objectives.”⁵³

The most positive thing to be said about Sites SA12 and SA13 on the other hand, was that there would be *“an opportunity for development of the site to contribute towards improvements to the bus and rail interchange at Burgess Hill.”⁵⁴*

5.21 These comparisons of the sites illustrate that the selection process was unsound, which is further demonstrated by evidence that the decision was predetermined, with MSDC having no intention of considering any change to the sites selected at consultation stage, making the whole consultation process a sham.

5.22 In the Planning Policy response to now withdrawn planning application 20/0559 for up to 725 homes at Haywards Heath Golf Course, MSDC state as a major reason for their opposition to the application the fact that the site was not put forward to the Site Allocations DPD.

“The Golf Course was determined to be unnecessary to meet the spatial strategy.”⁵⁵ [because of the selection of Sites SA12 & SA13 instead]

The response also suggested that the meeting of Full Council originally scheduled for 1 April 2020 (but postponed due to Covid) was simply to *“make the final approval of the draft Submission Plan”⁵⁶*

⁵³ Site Selection Paper 3: Housing – Appendix B: Housing Site Proformas

⁵⁴ Ibid.

⁵⁵ MSDC Planning Policy Response, DM/20/0559, 27 March 2020, page 4

<https://padocs.midsussex.gov.uk/PublicDocuments/00701575.pdf>

⁵⁶ Ibid. page 3

5.27 In addition to the above error, this section also fails to assess transport, energy / waste and water for the Burgess Hill sites, with a question mark instead of a rank – not helpful for decision making.

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											more than a 20 minute walk. The impact of option (h) on this objective is uncertain; currently the site is a long distance from local services, however, this will change once the Northern Arc is built out.
4 - Retail	+	++	+	++	++	+	-	?	++		Site option (b), (d), (e) and (f) are located less than a 10 minute walk from the nearest convenience store, option (a), (c) and (f) are a 10-15 minute walk while option (g) is more than a 20 minute walk. The impact of option (h) on this objective is uncertain; currently the site is a long distance from local services, however, this will change once the Northern Arc is built out.
5 - Communities	+	+	+	+	+	+	+	+	+		All site options would encourage the growth of communities.
6 - Flood Risk	0	0	0	0	0	0	0	0	0		None of the site options have areas at risk from flooding, or have suffered from flooding in the past.
7 - Land Use	--	++	--	-	++	--	-	-	-		Site option (d), (g), (h) and (i) are on green field land, and are relatively small sites. Option (a), (c) and (f) are also on green field land, but are relatively large. Options (b) and (e) are on previously developed land so have the most positive impact on this sustainability objective.
8 - Biodiversity	0	0	0	0	0	0	0	0	0		There are no formal biodiversity designations (Ancient Woodland, SSSI, Local Nature Reserve, etc) on or adjacent to any of the site options.
9 - Countryside	-	0	-	0	0	-	-	-	0		All site options are outside of the High Weald AONB. Site options (a), (c), (f), and (g) are in areas of medium landscape capacity while option (h) is in an area of low/medium capacity. Site options (b), (d), (e) and (i) are within the built up area settlement boundary of Burgess Hill, hence have a high landscape capacity.
10 - Historic	0	0	0	0	0	-	0	0	0		All site options have no constraints in terms of listed buildings and conservation areas, apart from option (f) which is not constrained by a conservation area, but would have a less than substantial harm (medium) on High Chimneys (Grade II listed).
11 - Transport	?	?	?	?	?	?	?	?	?		None of the site options on their own are likely to contribute to negative impacts on the highways network. In-combination modelling of the package of preferred option sites will be tested as part of the evidence supporting the Site Allocations DPD.
12 - Energy/Waste	?	?	?	?	?	?	?	?	?		All site options are going to impact on the amount of waste generated, due to additional population generated from housing as well as during construction. All options should seek to recycle materials and make best use of resources, including using sustainable construction techniques and renewable energy in accordance with District Plan policies.
13 - Water	?	?	?	?	?	?	?	?	?		All site options are going to impact on the amount of water used and wastewater generated, due to additional population generated from housing as well as during construction. This site option should seek to minimise water use, including using sustainable construction techniques in accordance with District Plan policies.
14 - Regeneration	+	++	+	++	++	+	-	-	++		All site options perform positively against this objective as the sites are in close proximity to the town centre. Sites options (b), (d), (e) and (f) have a significantly positive impact as they are very close to the town centre. Options (g) and (h) are remote from the existing town centre, so have a negative impact on this objective.

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5.28 The excerpt at para 5.27 above also shows a questionable scoring of flood risk. Part of Site SA13 is a low-lying meadow through which a stream flows. The 2009 Folders Lane Field Survey (Section 3 Appendix 3B) describes:

"Field damp in places. Almost certainly standing water in places in wet winters. Water table is probably fairly close to the surface throughout the year. "

This area is frequently flooded, as the photographs at Appendix 5E show.

5.29 The Sustainability Appraisal contains inconsistencies in site assessment similar to those outlined in Section 5-2 above, leading to questions over its validity and soundness.

5.30 These are clear when looking at the key social and environmental strands of sustainability used to assess the marginal sites including SA12 & SA13 – as illustrated in the extract below:

⁵⁸ Site Allocations DPD Sustainability Appraisal (Regulation 19) July 2019, page 124

Marginal	1	Burgess Hill	557	Land south of Folders Lane and east of Keymer Road, Burgess Hill	200	relation to other objectives can deliver housing with greater certainty, thereby performing more positively than Site 474 overall. Positive effects are anticipated in relation to housing and the suite of social SA objectives.
		Burgess Hill	738	Land east of Greenacres, Keymer Road and south of Folders Lane	100	Positive effects are anticipated in relation to housing and the suite of social SA objectives.
		Burgess Hill	827	Land South of 96 Folders Lane, Burgess Hill	40	Positive effects are anticipated in relation to housing and regeneration SA objectives, whilst minor negative effects are anticipated in relation to the social objectives on the basis that the Northern Arc development will provide new facilities later in the plan period which are not in situ at the current time.
		East Grinstead	998	Old Court House, Blackwell Hollow, East Grinstead	12	The site performs well in relation to the majority of SA objectives as it is a brownfield site in a sustainable location at a Tier 1 settlement.
		Haywards Heath	503	Haywards Heath Golf Course, High Beech Lane, Haywards Heath	630	In light of the potential for significant levels of growth at the site, including delivery of new community infrastructure, schools and healthcare, major positive effects are anticipated in relation to the housing and social SA objectives, and positive effects are

These "negative effects" apply equally to sites 557 & 738 which make up Site SA13

Site Allocations DPD – Sustainability Appraisal – February 2020

SA	Cat	Settlement	SHELAA ID#	Site	Yield	Reasons
						anticipated in relation the economic SA objectives. The potential for major negative effects on land use is identified given that the site is almost entirely greenfield and is a significant scale.
						Positive effects are anticipated in relation to the housing and

Why is the potential for "major negative effects" not mentioned for sites 557, 738 & 827 which are entirely (not "almost entirely" greenfield?

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- 31 In addition, when considering the 3 Options for additional growth, the assessment of environmental concerns is highly questionable. The extract below shows how building on a man-made golf course was ranked as being worse than building on an untouched historic field system (7-Land Use) while the biodiversity of the natural habitat of SA13 was not even assessed (8-Biodiversity).

Table 19 - Housing Options

Site Selection				
Reasonable Alternatives for Assessment				
Option A: 20 'Constant Sites'. 1,424 dwellings.				
Option B: 20 'Constant Sites' + Folders Lane, Burgess Hill (x3 sites). 1,764 dwellings				
Option C: 20 'Constant Sites' + Haywards Heath Golf Course. 2,054 dwellings.				
Objective	A	B	C	Assessment
1 - Housing	+	++	++	All options meet the residual housing requirement, therefore impact positively on this objective. Options (b) and (c) provide more certainty that housing need would be met, as they provide a healthy buffer above the minimum amount of development required. This provides a level of contingency should some sites not be delivered as expected (either in entirety, or with a reduced yield).
2 - Health	+	++	+	The 20 constant sites have been selected according to their consistency with the spatial strategy, focusing on higher tier settlements. The collection of sites is largely well connected to health, education and retail facilities.
3 - Education	+	++	+	Option (b) performs more positively against these objectives, as the sites at Folders Lane are in close proximity to each of these facilities.
4 - Retail	+	++	+	
5 - Communities	+	+	+	All options would provide sufficient housing, spread across the district according to the settlement hierarchy and District Plan strategy. This enables families to grow in areas where need is derived from, helping existing communities to grow.
6 - Flood Risk	0	0	0	None of the options are likely to have any negative impacts on flood risk. All sites selected will need to ensure there is no risk from flooding.
7 - Land Use	-	-	---	All options would involve significant development on greenfield sites, and are therefore likely to have negative impacts on this objective. In particular, the yield associated with option (c) is likely to have a greater impact on this objective.
8 - Biodiversity	?	?	-	Options (a) and (b) include sites that may have a negative impact on biodiversity, although policy requirements for mitigation should reduce any negative impacts. Option (c) in particular includes a site that contains ancient woodland and is adjacent to a designated Local Wildlife Site; although these could be mitigated there is a higher prospect of negative impacts upon this objective.
9 - Countryside	-	-	-	Whilst some sites have a greater impact on landscape

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⁵⁹ Site Allocations DPD Sustainability Appraisal (Regulation 19) July 2019, page 124

⁶⁰ Site Allocations DPD Sustainability Appraisal (Regulation 19) July 2019, page 59

- 5.32 The Sustainability Appraisal did not provide sound guidance for the Site Allocations process, and contributed to Sites SA12 & SA13 being allocated when they are unsuitable and unsustainable.

5-4 MSDC MISHANDLED THE REGULATION 18 CONSULTATION WITH OBJECTIONS AND EVIDENCE OMITTED AT A CRUCIAL STAGE IN THE PROCESS

MSDC's errors at Regulation 18 stage meant the Councillors did not have the full picture when making a key decision and therefore the process was unsound.

- 5.33 MSDC published their Site Allocations Document in autumn 2019 and it went out for public consultation from 9 October – 20 November 2019. There were over 800 objections to Sites SA12 & SA13, including a comprehensive 36-page submission from SOFLAG. However, when the full consultation report was published on the MSDC website, the SOFLAG submission and that from the Broadlands Residents Association – also opposing sites SA12 & 13 – were missing.
- 5.34 This error was pointed out to MSDC on 24th January, and on 31st January the missing responses were inserted into the full online report – adding 57 pages to it.
- 5.35 However, the Scrutiny Committee for Housing and Economic Development met on 22nd January – prior to the correction being made – and voted to recommend approving the SSDPD for the next stage following the consultation. Members of this Committee had been emailed a reports pack with the summary of responses and a committee report. The full consultation report was available to them online – but the SOFLAG and Broadlands Residents Association submissions were missing until after the Committee met.
- 5.36 In their response to a complaint about the missing submissions (See Appendix 5 F) MSDC pointed out that the submissions were not omitted from the **one printed copy** available to members in the Members Room at the Council Offices. However, members had no way of knowing that the online consultation report had 57 pages missing so would not have known they had to visit the Members Room and wait in line to see the correct version.
- 5.37 The key Scrutiny Committee of 22nd January had been scrutinising an incomplete report, which was missing important evidence opposing the selection of Sites SA12 & SA13. MSDC assured us that this was merely an "oversight", but it renders this part of the process unsound.
- 5.38 SOFLAG raised this issue with the Scrutiny Committee Chair, Councillor Neville Walker, before the Committee Meeting of 11 March 2020 at which the Site Allocations DPD was to be discussed. Councillor Walker sent a response, copied to all committee members, 4 hours before the start of the meeting. This response contained factual errors, stating that *"Once officers were made aware of a technical error with the detailed online Consultation Report a revised version was uploaded the same day"* when in fact they were not uploaded until 28th January.

SOFLAG pointed out the errors in a follow up email and the full correspondence is attached at Appendix 5G.

- .39 Committee Members had been misled before this critical meeting, and therefore this part of the process was unsound.

5-5 MSDC OFFICERS AND COUNCILLORS MISLED COUNCIL AND COMMITTEES AT KEY DECISION-MAKING MEETINGS

Statements made by both Councillors and Officers during the Site Allocations process have been untrue and misleading, making the process unsound.

- 5.40 As mentioned in Section 4, at the Scrutiny Committee for Housing, Planning and Economic Growth on 22nd January 2020, Andrew Marsh, Business Unit Leader for Planning Policy, made an untrue and misleading statement about the site selections. He said in the meeting (as was reported at point 7 in the Minutes):
*"Objections were predominantly from residents to the proposed sites" [and there were] "indeed **no objections from neighbouring authorities**"*
- 5.41 This gave the false impression to Members, that there was no opposition from any councils or statutory consultation authorities. This was not the case, as detailed in Section 4 of this representation.
- 5.42 At the Scrutiny Committee for Housing, Planning and Economic Growth on March 11th, Councillor Robert Eggleston raised this issue. He clarified that contrary to point 7 of the minutes of the previous meeting, there were in fact in the report, detailed objections to Sites SA12 & SA13 from neighbouring authorities, plus other voluntary and statutory consultees. This is not recorded in the printed minutes of the meeting from 11th March – another example of MSDC seeking to hide the considerable opposition to these sites.
- 5.43 Following the delay caused by Covid, the Regulation 18 Site Allocations DPD was then discussed and voted on at Full Council on 22 July 2020:
- In his opening remarks, Councillor Andrew MacNaughton, Cabinet Member for Housing, discussed the housing site allocations and stated: ***"it is far too late to remove or add sites in"***
- This was untrue and misleading, directing Councillors towards making a decision by suggesting to them that the amendment proposed at the meeting to remove Sites SA12 & SA13 from the DPD was "too late".
- The published minutes of the meeting do not mention this statement and the misleading direction it gave to Councillors, but it can be found 30 minutes into the YouTube broadcast of the meeting.
- 5.44 In conjunction with the contradictory statements about the Transport Study highlighted in Section 5-1, this demonstrates another unsound aspect of the Site Allocations DPD process, without which Sites SA12 & SA13 would not have been selected.

5-6 MSDC APPLIED THE HOUSING BUFFER INCORRECTLY, LEADING TO UNSOUND DECISION MAKING

MSDC have applied an excessive “buffer” far beyond that required by law, meaning that Sites SA12 & SA13 are not required

- 5.45 Para 73 of the NPPF sets out that Local Authorities must identify a supply of deliverable housing sites to provide a minimum of five years’ supply, and should include an additional buffer of:
- a) 5% to ensure choice and competition in the market for land or
 - b) 10% where the local planning authority wishes to demonstrate a five-year supply of deliverable sites through an annual position statement or recently adopted plan³⁸, to account for any fluctuations in the market during that year or
 - c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply⁶¹
- The 20% figure is only required if a Housing Delivery Test indicates delivery below 85%. In the Annual Position Statement on the MSDC website, the result for Mid Sussex is 110%⁶²
- 5.46 The Position Statement goes on to say “For the purposes of the Housing Delivery Test Mid Sussex is a 5% authority” but will be applied a 10% buffer in accordance with the NPPF.⁶³
- 5.47 The buffer provided by the Site Allocations DPD, if it continues to follow Housing Option 2, which includes Sites SA12 & SA13 is 38%. Without them it is 11%.
- 5.48 The required figure for additional housing is 1280 units. MSDC’s Site Allocations DPD Housing Land Supply Statement reports that the DPD, as it stands, will supply 1764 units⁶⁴, an oversupply of 484 = 38%
- 5.49 At full Council on 22nd July, Leader Jonathan Ashe Edwards, stated that such a large oversupply was required because the Inspector’s hearing “will be held in the depth of a major recession making the delivery of some developments potentially uncertain,” meaning that developers could fail to build, or even go bust. There is no way of predicting with certainty, whether or not a major recession will arrive by the unknown date of the hearing, and no way of predicting what developers would do, if there was. An alternative prediction would be that a recession will lead to less demand for the executive houses that form the major proportion of development in this area, so fewer sites would be needed not more.
- 5.50 If Councillor Ashe Edwards’ predictions are taken as fact, and a large buffer is needed because of the risk of recession, then arguably a larger buffer still, would be advisable. Yet MSDC are not going with the option that provides the biggest, and therefore most secure, buffer. That would be Option 3, which MSDC are not recommending.

⁶¹ National Planning Policy Framework, Feb 2019, para 73 page 21

⁶² MSDC Housing Land Supply Position Statement, para 4.8 page 5

⁶³ Ibid. para 4,9 page 6

⁶⁴ MSDC Site Allocations DPD Housing Land Supply Statement, August 2020, para 2.2 page 1

- 5.51 Either the MSDC buffer requirement is in accordance with the NPPF, in which case Sites SA12 & SA13 are not required, or the most secure buffer possible is needed in which case Option 3 rather than Option 2 should be selected – which does not include Sites SA12 or SA13.

5-7 A SERIOUS CLOUD REMAINS OVER THE FINAL SITE SELECTION SHORTLISTING DECISION

So many questions have been asked about this part of the process, and so few answers given, that it cannot be declared sound and proper.

- 5.52 The final recommendation to put the fields south of Folders Lane into the Site Selection DPD was made at the last meeting of a Working Group of councillors in August 2019. When established, the terms of reference stated that it would comprise **“7 members, politically balanced, comprising six Conservatives and one Liberal Democrat to advise the Scrutiny Committee for Community, Housing and Planning.”**⁶⁵ The Terms of Reference are attached at Appendix 5 H

The original members of the working group were 8 councillors:

Cllr Rod Clarke – HAYWARDS HEATH (Con)	Cllr Gordon Marples - HASSOCKS (Con)
Cllr Ruth De Mierre – HAYWARDS HEATH (Con)	Cllr Pru Moore - BURGESS HILL (Con)
Cllr Lyn Stockwell – HIGH WEALD (Con)	Cllr Antony Watts Williams. – HURSTPIERPOINT (Con)
Cllr Rex Whittaker - EAST GRINSTEAD (Con)	Cllr Sue Hatton – HASSOCKS (Lib Dem)

- 5.53 Following election results in May 2019 the working group was depleted as 3 members lost their seats and it no longer complied with its terms of reference. The Council changed from 53 Conservative and 1 Lib-Dem to 34 Conservative, 13 Lib Dem, 4 Independent and 3 Green (63% Conservative and 37% other).
- 5.54 To comply the working group should then have contained 4 Conservative and 3 others. Instead, those councillors who lost their seats were simply not replaced, leaving the following 5 members:

Cllr Rod Clarke – HAYWARDS HEATH (Con)	Cllr Lyn Stockwell – HIGH WEALD (Con)
Cllr Ruth De Mierre – HAYWARDS HEATH (Con)	Cllr Rex Whittaker - EAST GRINSTEAD (Con)
Cllr Sue Hatton – HASSOCKS (Lib Dem)	

⁶⁵ Site Allocations Document, Members Working Group, Terms of Reference (Appendix 1 to Minutes of Scrutiny Committee for Planning & Housing, 14 November 2017)

- 5.55 Only one councillor from south of Haywards Heath remained – Lib-Dem Sue Hatton from Hassocks. She could not attend the final meeting, arranged at short notice during the summer holiday period (notified on 7th August of meeting on 27th August 2019), meaning that this meeting of the group was not “politically balanced”, with Burgess Hill and villages to the south completely unrepresented.
- 5.56 An FOI enquiry revealed that in addition, Cllr Rod Clarke was also unable to attend that final meeting, leaving it with less than half of its original membership. Despite being in contravention of its terms of reference with too few members and only Conservatives in attendance, it was at this meeting that the fields south of Folders Lane were chosen. We understand from various sources that up until this final meeting Haywards Heath Golf Course was the preferred option.
- 5.57 SOFLAG requested under FOI information on the final meeting of the Working Group in an attempt to find out how the decision to put forward Sites SA12 & SA13 was made. Requests were refused, citing Exemption ‘Section 36 (2) (c) - disclosure of the information would otherwise prejudice, or would be likely to otherwise prejudice, the effective conduct of public affairs’, SOFLAG believes that it is the public interest to understand what happened at this crucial meeting and has escalated the refusal to release the notes to the ICO and latterly by appeal to the First Tier Tribunal of the High Court – the case is yet to be decided.
- 5.58 Council Members expressed concern about this meeting and its outcome at the first opportunity, when the DPD was discussed at Full Council on 25 September 2019, as shown in these extracts from the Minutes:
“Some Members expressed concern regarding the decisions made by the Working Group at the most recent meeting held in August, noting that this meeting was held after the May 2019 election and did not seek to replace Members of the Group who were not re-elected.”
“concerns regarding the openness of the final meeting of the Working Group and the lack of political or geographical balance”
“Councillor Hatton, a Member of the Working Group who was unable to attend the final meeting and raised concern that local knowledge was missed, by not including a geographical balance of those in attendance.”
- 5.59 At that meeting on September 25th an amendment was tabled requesting the setting up of a new, politically balanced Working Group, citing concerns over lack of transparency, but the amendment was defeated. The Amendment is attached at Appendix 5 I
- 5.60 Councillor Sue Hatton, the Member of the Working Group unable to attend the final August meeting, continued to raise her concerns about how the process has been handled. At Scrutiny Committee on 11 March 2020 she made the following statement:
“As a member of the site selection group, and I think I’m the only one in this room that has sat on it from this committee, I was concerned that the final months’ deliberations were severely restricted as a result of last May’s election. The group had been set up specifically for all areas of the district to be represented equally by councillors with an in depth knowledge of their own areas and that was its strength. Unfortunately, the group was depleted after the election, reduced by 3 including its chairman with no substitutes allowed. These were all members representing the south of the district. When its last meeting was called in August when I was away on holiday there were therefore no councillor to represent the south to take part in the deliberations at that meeting. Consequently the 300 site [SA13] was chosen over Haywards Heath Golf Club... In view of this I think the site south of Folders Lane should be taken out, and consideration be given to the inclusion of Haywards Heath Golf Club.”
- 5.61 Councillor Hatton raised her concerns again at Full Council on 22nd July, as confirmed in the Minutes (page 7).

5.62 The implications are clear, the decision making process that led to the selection of Sites SA12 and SA13 for the DPD was not fit for purpose, with the final crucial recommendation being made by a depleted, unrepresentative working group. This is unsound.

Appendix 5 A

Email to Sally Blomfield, Divisional Leader Planning & Economy, Mid Sussex District Council

13th May 2020

Dear Ms Blomfield

We're writing to you regarding the SSDPD, with particular reference to the inclusions of sites SA12/13. We have made public our many concerns about the inclusion of these sites. One factor is the adverse effect we know that this development will have on the traffic flow in and around Burgess Hill. This issue has been raised by many, in the public consultation, as well as your own councillors at the Scrutiny Committee. Any fears raised are always rebutted with justification that the Mid Sussex Transport Study was prepared by "experts" and "demonstrated that these sites can be delivered" As residents of the local area, we know that this would, in real life rather than modelling, lead to gridlock on the south side of Burgess Hill.

We have made several FOI requests to MSDC for information on how the SYSTRA study was commissioned, what brief they were given, how they came to their final conclusions. We have yet to receive the full picture, with some requests being refused. This has forced us to engage our own expert traffic consultant, GTA Civils & Transport, to review the findings of the MSTS, with particular reference to the effect of the proposed sites SA12/13.

Our consultant has identified a number of discrepancies in the MSTS, which he believes will result in a "severe" impact at many of the local junctions if Sites SA 12/13 were to go ahead.

As a result, we are urgently requesting the answers to the following vital questions which we would like answered in order for SSDPD to be properly scrutinized.

1. Could you clarify whether the description in the SATURN model incorporates the erroneous speeds as shown in Figure 6 of the LMVR (Local Model Validation Report)?

Namely:

The B2112 on the approach to Ditchling from the Folders Lane direction is shown partly as 60 mph (correct) but 40 mph on the entire stretch approaching Ditchling crossroads – in reality the final section approaching Ditchling crossroads is not only 30 mph but has traffic calming in place that would reduce cruise speed substantially below that.

The B2112 from Folders Lane roundabout north to Janes Lane is shown as having a 30mph speed limit – in reality most is 60 mph;

2. In the Reference Case alone, many junctions are forecast to experience "severe" impacts for which no mitigation is proposed – hardly a glowing endorsement of the situation that would arise. This is **without** the potential additional impacts of the SSDPD. How therefore, can you claim that the traffic levels around the town are acceptable and that the SSDPD will make no detrimental difference to the traffic flow?

3. The reviewed models do not include assessment of highway safety. This contravenes para 109 of the revised NPPF 2019. Why is this omitted?

4. The 2020 modelling report at table 7 demonstrate that the effects of the mitigations are woefully inadequate. They will have very marginal effects in practice, certainly in the Burgess Hill area. Our expert advisor's review of your own data states that the widening of the A23 to 3 lanes is, in fact, a necessary mitigation to the reference case (RC) scenario not just the SSDPD. Without this, there are many unmitigated impacts in the local plan and RC scenarios that will only be made worse (and unsustainable) by the changes in the SSDPD. This mitigation also specifies a dependency on the 'the improved public transport interchange facility at Burgess Hill. However, this facility's extent, location and funding are not yet determined, with no agreed timescale for delivery. Please give evidence of how this mitigation can be adequate to address the community's and our traffic experts' concerns?

5. Why are the impacts of the SSDPD being determined against the RC? This is a flawed argument. The impacts of the SSDPD should be assessed against the base year, just as the impacts of the plan itself have been. If the plan results in a 'severe' impact compared to base year, any incremental impacts from any additional development is also 'severe' compared to base year. It is not acceptable, no matter how small an increment. Why is the MSTs using this flawed approach which gives an inaccurate result?

6. The dependency of the local plan itself, let alone the SSDPD, should be considered to be critically dependent on the A23/A2300 issue. The A2300 work alone has not actually been completed and is not due to be finished for nearly two years, so how can you be confident again that the SSDPD will not have a detrimental impact on local traffic?

We are extremely concerned by these findings which validate many of the concerns of local residents, expressed in the first round of consultation but seemingly dismissed. Given you are accountable for delivering sensible housing developments in the right places, I'm sure you will also be concerned by the issues that have been highlighted by our traffic consultant. It is vital that any transport study which takes place is fully understood and robustly challenged by full council to ensure it gets the right results. It is not enough for you to simply accept the findings because they are from your appointed "experts" if local residents and other experts in the field can find such serious failings in them.

It is vital for our whole district that local traffic is properly planned. Our towns and villages should not be gridlocked just to ensure that you have delivered your quota of new homes.

We would like you to come back to us with the answers to the very serious questions we have outlined above. We will of course be sharing the findings of the study with the local councillors and the general public at large. Everyone will therefore be wanting answers to the questions that have arisen.

A copy of a summary of the highway's impacts found in the GTA Civils & Transport report is attached. A full copy of the report can be viewed upon request.

Kind regards

SOFLAG

Appendix 5 B

Response to SOFLAG Transport Study queries – July 2020

Dear SOFLAG,

Thank you for your email and for providing a copy of the GTA Civils & Transport study (May 2020) review which focuses on the proposed allocation of Folders Lane Burgess Hill.

As you are aware, the Mid Sussex Transport Model was produced by transport consultants SYSTRA, in close co-operation with West Sussex County Council (the highways authority).

The following responds to each of the questions raised in your email and reflects technical advice received from Systra and WSCC.

Question One

Could you clarify whether the description in the SATURN model incorporates the erroneous speeds as shown in Figure 6 of the LMVR (Local Model Validation Report)?

Namely:

The B2112 on the approach to Ditchling from the Folders Lane direction is shown partly as 60 mph (correct) but 40 mph on the entire stretch approaching Ditchling crossroads – in reality the final section approaching Ditchling crossroads is not only 30 mph but has traffic calming in place that would reduce cruise speed substantially below that.

The B2112 from Folders Lane roundabout north to Janes Lane is shown as having a 30mph speed limit – in reality most is 60 mph;

MSDC Response:

The model uses assumed average speeds for each road section taking account of the speed limit (which may vary along the length of the model link) along with gradients, bends, side roads and other hazards. The study requires realistic traffic flows, volume over capacity and delay and this is achieved by correctly modelling journey times to

ensure that the appropriate traffic flows are using each road. The Local Model Validation Report (LMVR) shows that the modelled traffic flows are close to the observed traffic flows for the B2112 and Folders Lane, which suggests that route shares are realistic.

The road links referred to above meet on the same route, one is faster than observed and one is slower which would balance out for end to end traffic. The modelled traffic flow is close to observed traffic counts, which again suggests that the model is assigning a realistic flow to this road.

SOFLAG RESPONSE TO THIS ANSWER:

MSDC admit that the model uses average speeds to create traffic flows.

An average is useless when the problems occur at specific junctions for a specific time during the vital morning and evening peaks.

Question Two

In the Reference Case alone, many junctions are forecast to experience “severe” impacts for which no mitigation is proposed – hardly a glowing endorsement of the situation that would arise. This is *without* the potential additional impacts of the SSDPD. How therefore, can you claim that the traffic levels around the town are acceptable and that the SSDPD will make no detrimental difference to the traffic flow?

MSDC Response:

The baseline (Reference Case) is made up of existing conditions, growth already planned for (including existing allocations, planning permissions and mitigation) and forecasts for future trip rates, excluding the Sites DPD proposed sites.

In accordance with the National Planning Policy Framework (NPPF, paragraph 109), development should only be prevented or refused on highways grounds where the impact of proposals in the Sites DPD itself would lead to a ‘severe’ additional impact on the road network when compared with the Reference Case.

The test therefore is to identify the difference between the impact of the new development versus any underlying conditions and determine whether the Sites in the DPD would add additional traffic to the network which would lead to a 'severe' impact being triggered (i.e. "residual cumulative impact as defined in NPPF para 109). This is essential to ensure the new development mitigates the directly associated impacts. In accordance with national policy and guidance, new development cannot be responsible for resolving pre-existing conditions and issues.

Where junctions are assessed to be 'severely' impacted by the development, appropriate sustainable measures and highway mitigation schemes are proposed and tested in the model, to remove the 'severe' impacts. The definition of 'severe' is derived using WSCC's position statement in relation to the NPPF which sets out their interpretation of terms defining traffic impacts.

SOFLAG RESPONSE TO THIS ANSWER:

This includes reference to "severe ADDITIONAL impact" and the line (repeated in the Committee Report) that "new development proposed within the Sites DPD is not responsible for resolving pre-existing conditions."

MSDC are happy that an already severe situation in the morning and evening peak will inevitably be made worse, because the SYSTRA model in effect cannot register more severe than severe.

Question Three

The reviewed models do not include assessment of highway safety. This contravenes para 109 of the revised NPPF 2019. Why is this omitted?

MSDC Response:

The transport modelling work and evidence base in support of the Sites DPD is an iterative process. Safety evidence is required for submission and examination of the Sites DPD and now that the authority has a preferred development scenario, the safety study work will be completed to meet the requirements of para 109 of the NPPF.

SOFLAG RESPONSE TO THIS ANSWER:

Probably the most serious example of negligence in the Transport Study.

To comply with the NPPF, safety study work should have been done. MSDC admit that this has not happened, and state that it will be completed in the future in time for the examination.

This meant that at Full Council on 22nd July Councillors were required to vote on the Site Allocations without knowing the crucial safety implications of selecting Sites SA12 / 13, based on the evidence of an incomplete transport model that had no safety study, did not comply with the NPPF, and would not comply until after they have voted on it.

The Regulation 19 Consultation is also being conducted without the required safety study in place.

Question Four

The 2020 modelling report at table 7 demonstrate that the effects of the mitigations are woefully inadequate. They will have very marginal effects in practice, certainly in the Burgess Hill area. Our expert advisor's review of your own data states that the widening of the A23 to 3 lanes is, in fact, a necessary mitigation to the reference case (RC) scenario not just the SSDPD. Without this, there are many unmitigated impacts in the local plan and RC scenarios that will only be made worse (and unsustainable) by the changes in the SSDPD. This mitigation also specifies a dependency on the 'the improved public transport interchange facility at Burgess Hill. However, this facility's extent, location and funding are not yet determined, with no agreed timescale for delivery. Please give evidence of how this mitigation can be adequate to address the community's and our traffic experts' concerns?

MSDC Response:

Conservative assumptions have been used in respect of sustainable measures, applying a pragmatic and robust approach with regards to the level of mitigation. This level of traffic reduction, (1% to 3%) is significant for network performance at already congested junctions.

Informed by WSCC Highway Authority (HA), conservative assumptions for sustainable transport mitigation measures are included to ensure they are robust and deliverable and are sufficient to ensure any 'severe' transport impacts associated with the Sites DPD development can be mitigated.

At the detailed pre-application and planning application stage, of any sites, WSCC will explore more significant sustainable transport mitigation measures, these negotiations will be informed by site specific transport assessments and secured with any planning permission.

The Burgess Hill Public Transport Interchange scheme forms a part of the wider package of measures which are being facilitated through the Burgess Hill Place and Connectivity Programme the public engagement of which closed on 25 June. The measures will be funded through the Local Enterprise Partnership (LEP) Local Growth funding matched by funding secured by Section 106 Agreement from local development.

In respect of GTA's opinion regarding the proposed widening of the A23; it is assumed reference is being made to table 8 Outline Highway Mitigation specifically, 'S1 | Hickstead | A23 / A2300 Southbound On-Slip | A23 widened to three lanes from A2300 southbound Off-Slip to B2118/Mill Lane Off-Slip'.

As noted above and in accordance with national policy and guidance, new development cannot be made responsible for resolving pre-existing conditions and issues. Where 'severe' impacts are identified as associated with the proposed development in the Sites DPD, appropriate mitigation has been identified. The assessment in the GTA do not apply the appropriate tests or judgement required to meet the NPPF.

SOFLAG RESPONSE TO THIS ANSWER:

This answer relies on mitigation measures which have not yet been agreed, let alone implemented. Until these are live, how can their true impacts be measured? Once again MSDC state that "new development cannot be responsible for resolving pre-existing issues" but they expect Councillors and the public to accept that proposed mitigation not yet agreed will resolve them?

Question Five

Why are the impacts of the SSDPD being determined against the RC? This is a flawed argument. The impacts of the SSDPD should be assessed against the base year, just as the impacts of the plan itself have been. If the plan results in a 'severe' impact compared to base year, any

incremental impacts from any additional development is also 'severe' compared to base year. It is not acceptable, no matter how small an increment. Why is the MSTs using this flawed approach which gives an inaccurate result?

MSDC Response:

The approach taken by MSDC is in line with government guidance and best practice and has been agreed by WSCC.

SOFLAG RESPONSE TO THIS ANSWER:

This doesn't answer the question raised

Question Six

The dependency of the local plan itself, let alone the SSDPD, should be considered to be critically dependent on the A23/A2300 issue. The A2300 work alone has not actually been completed and is not due to be finished for nearly two years, so how can you be confident again that the SSDPD will not have a detrimental impact on local traffic?

MSDC Response:

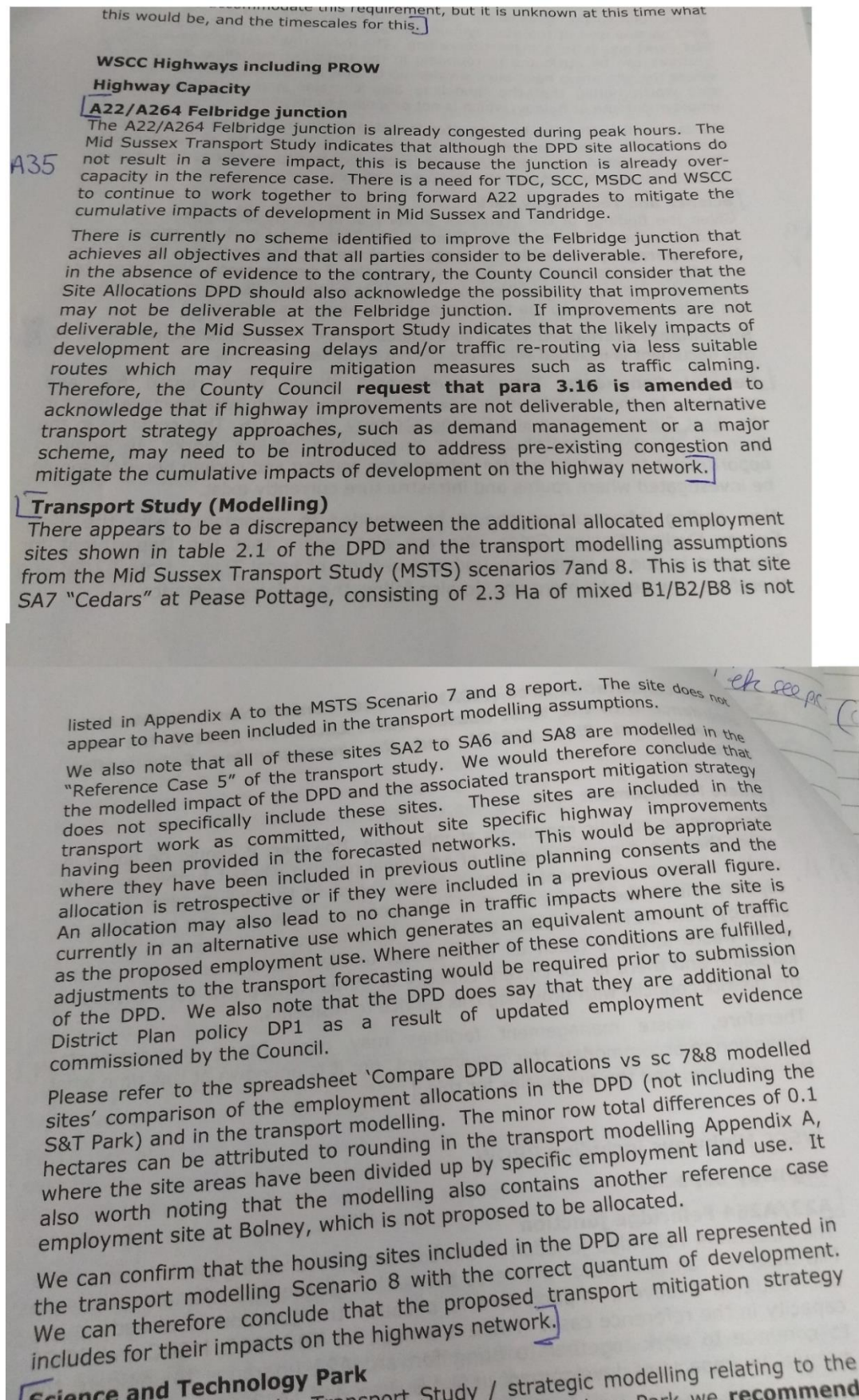
Systra indicate that the severe impact on the A23/A2300 junction is caused by the proposed Science and Technology Park allocation (SA9), and appropriate mitigation is being proposed. There is no indication the severe impact is caused by the proposed housing sites.

Work on the A2300 scheme is underway and is scheduled to be completed by Spring 2021.

SOFLAG RESPONSE TO THIS ANSWER:

This doesn't answer the question raised

APPENDIX 5 C



WSCC response to Regulation 18 Consultation, highlighting errors in the SYSTRA transport study.

Appendix 5 D

Freedom of Information <foi@midsussex.gov.uk>

[REDACTED]
[REDACTED]

Dear [REDACTED]

Thank you for your request. Please find our response below.

We have nothing on file from the Department of Transport related to the Systra study/methodology.

Note that the minutes of Scrutiny Committee state:

<http://midsussex.moderngov.co.uk/mqAi.aspx?ID=1998>

The Divisional Leader for Planning and Economy explained that whilst the transport work is commissioned by the Council, the work is carried out by specialist Transport consultants, SYSTRA, in close co-operation with the Highways Authority; West Sussex County Council. She added that Highways England had been consulted and did not raise an objection during the consultation. It was also noted that the work will ultimately be reviewed by an Inspector who is employed by the Planning Inspectorate.

If for whatever reason you are unhappy with our response you are entitled to pursue any dissatisfaction, in the first instance, by contacting Tom Clark, Solicitor to the Council, Mid Sussex District Council, Oaklands, Oaklands Road, Haywards Heath, West Sussex, RH16 1SS, email: tom.clark@midsussex.gov.uk, quoting your Reference Number.

If you still remain dissatisfied with the response you can complain to the Information Commissioner - details available at: <https://ico.org.uk/concerns/>.

Information provided under the FOI Act 2000 or the Environmental Information Regulations 2004 may be not be re-used, except for personal study and non-commercial research or for news reporting and reviews, without the permission of the Council. Please see the Council website <https://www.midsussex.gov.uk/about-us/open-government-licence/>, for further information or contact the FOI Team on 01444 477422.

yours sincerely,

FOI/DPA Team

Digital and Technology
01444 477422
foi@midsussex.gov.uk
<http://www.midsussex.gov.uk/my-council/freedom-of-information/>

Working together for a better Mid Sussex

From: [REDACTED]
Sent: 03 February 2020 19:29
To: Freedom of Information <foi@midsussex.gov.uk>
Subject: FOI request

This is an FOI request for information regarding MSDC and the SYSTRA transport study for the Draft Site Allocations DPD.

At the Scrutiny Committee on 22nd January 2020, Sally Blomfield stated that MSDC has "comments on that document from the Department of Transport who are substantially content with it"

I am requesting to see these Department of Transport comments on the study, together with any other correspondence with or feedback from the Department of Transport regarding SYSTRA, the study and the methodology.

Thank you.

Kind regards



The information contained in this email may be subject to public disclosure under the Freedom of Information Act 2000. Unless the information contained in this email is legally exempt from disclosure, we cannot guarantee that we will not provide the whole or part of this email to a third party making a request for information about the subject matter of this email. This email and any attachments may contain confidential information and is intended only to be seen and used by the named addressees. If you are not the named addressee, any use, disclosure, copying, alteration or forwarding of this email and its attachments is unauthorised. If you have received this email in error please notify the sender immediately by email or by calling +44 (0) 1444 458 166 and remove this email and its attachments from your system. The views expressed within this email and any attachments are not necessarily the views or policies of Mid Sussex District Council. We have taken precautions to minimise the risk of transmitting software viruses, but we advise you to carry out your own virus checks before accessing this email and any attachments. Except where required by law, we shall not be responsible for any damage, loss or liability of any kind suffered in connection with this email and any attachments, or which may result from reliance on the contents of this email and any attachments.

Appendix 5 E

Flooding at Site SA13



Appendix 5 F

[REDACTED]
To: planningpolicy

Wed, Jan 22 at 2:59 PM

Dear Andrew

Thank you for your reply, and the attachments which include SOFLAG's comments.

However it seems the SOFLAG response (#615) does not currently appear in the main document https://www.midsussex.gov.uk/media/4633/req18_summaryreport.pdf

Kind regards,

[REDACTED]
On Wednesday, January 22, 2020, 01:37:16 PM GMT, planningpolicy <planningpolicy@midsussex.gov.uk> wrote:

Dear [REDACTED]

Thank you for your email.

I can confirm we received the SOFLAG response. I attach the summary reports for those who made comments on SA12 or SA13 specifically (a number of responses received referred to both sites, so are presented together in the report online), these include the SOFLAG response. These should be within the online report, I will ask someone in the team to check. If they are not I will arrange for it to be amended as soon as possible.

Kind regards,

[REDACTED]
[REDACTED]
Interim Business Unit Leader – Planning Policy

[REDACTED]
www.midsussex.gov.uk

Working together for a better Mid Sussex

From: [REDACTED]
Sent: 22 January 2020 13:26
To: planningpolicy <planningpolicy@midsussex.gov.uk>
Subject: Re: Consultation Responses

Dear [REDACTED]

Thank you for your email.

I have looked at the full responses document https://www.midsussex.gov.uk/media/4633/reg18_summaryreport.pdf

but I cannot see the response to SA12 / SA13 from the South of Folders Lane Action Group.

It was submitted on 18 November both via the online form and by email from info@soflag.co.uk and I have the automated receipt responses.

Please can you confirm that it was received, and why it is not included in this document - am I looking in the wrong place?

Thank you.

Kind regards,

Amanda

Appendix 5 G

Email correspondence between SOFLAG and Councillor Neville Walker, Chair, Scrutiny Committee for Planning, Housing & Economic Growth, 6 – 15 March 2020

Dear Councillor Walker,

Thank you for your email dated 11 March to our email of 6 March.

Unfortunately, you are mistaken in your response as your four points contain two factual errors and other significant issues. We are concerned that you are either already aware of but disregarding them, or you may have been misled in advice you have received. We would welcome your response to our explanation below:

1. Factual error: We informed MSDC of missing responses on 22 January and these were not uploaded until 28 January, six days later not the same day. We would be grateful to receive your confirmation on this as the point is important. The upload took place after the Scrutiny Committee meeting and we again make the point that critical information was withheld from the members of that committee. You state a paper copy (of the missing responses including the detailed SOFLAG submission) was 'provided' to members. This is not the case. Most members would have been unaware of the need to go to the Members Room to consult the one and only printed copy, as they would have been unaware that the information was missing from the online versions with which they had been provided.
2. We are fully aware of the reasons MSDC gave for refusing our FOI request. MSDC also attempted to use an exclusion to withhold information relating to planning (housing windfall sites) in 2018. The ICO ruled against MSDC then (7 May 2019) and we expect it to do this again. MSDC Planning cannot keep hiding information from the public that doesn't suit its narrative. The more MSDC attempt to prevent access to these documents the bigger the suspicion is that they have something to hide about the probity of the process regarding Haywards Heath Golf Course. Refusing to release the working group notes only increases the doubts.
3. Factual error: In the 1257 page November 2019 Regulation 18 Consultation Report the responses we listed from Horsham and Wealden District Councils were listed as "object", along with all the others. As highlighted at the Scrutiny Committee on 11 March, Mr Marsh's statement to the January committee was clearly wrong and misleading.
4. Using MSDC's own site selection criteria Haywards Heath Golf Course is more suitable and no SUBSTANTIAL reason has been given for rejecting it. The fact that a planning application has now been submitted is not a reason for precluding it from inclusion in the selected sites.

Kind regards

SOFLAG

Dear SOFLAG,

Thank you for your email dated 6th March. In response to each of your points raised, in turn, I advise as follows:

1. Critical responses omitted from consultation report:

It is this Council's view that all the representations have been presented to Members.

Once officers were made aware of a technical error with the detailed online Consultation Report a revised version was uploaded the same day. However, the paper copy provided to Members did not include this error and the two submissions referred to by SOFLAG were available.

In addition, the report to the Scrutiny Committee on 22nd January 2020 included a summary of the broad themes and issues, which included the two submissions referred to by SOFLAG.

The summary of comments on sites SA12 and SA13 on pages 26-28 of the report to Scrutiny on 22nd January 2020 also included the responses referred to by SOFLAG.

2. Refusal of requests for transparency around site selection:

The Site Selection Process is transparent and is clearly set out in paragraphs 12–31 of the report to Scrutiny Committee for Housing, Planning and Economic Growth on 11th September 2019.

The Folders Lane and Haywards Heath golf course sites were assessed against the agreed Site Selection criteria, with the assessment conclusions published in Site Selection Paper 3: Housing which is available on the Council's website at www.midsussex.gov.uk/SitesDPD.

Paragraphs 19 and 20 and Table 2, on page 4 of the report to Scrutiny on 11th September 2019, explain that, as a result of the Site Selection findings, the Folders Lane and Golf Course sites were included in a shortlist of 47 sites for further assessment.

The Sustainability Appraisal assessed these 47 sites and three reasonable alternatives were considered – (1) 20 constant sites, (2) 20 constant sites plus Folders Lane, and (3) 20 constant sites plus Haywards Heath Golf Club.

Paragraph 28, on page 6 of the report to Scrutiny on 11th September 2019, concludes that, on balance, Option 2 performed better overall and was therefore included in the draft Sites DPD for the purposes of public consultation. This decision is evidenced and transparent.

In an FOI (96201) dated 15th November 2019, the Council confirmed the reasons it is unable to make the notes of the Working Group public. An extract from the FOI response is as follows:

With regard to working group papers, the Council is entitled to apply an exemption if it believes one exists. In this particular case the Council believes that the Exemption 'Section 36 (2) (c) - disclosure of the information would otherwise prejudice, or would be likely to otherwise prejudice, the effective conduct of public affairs', applies. This exemption is subject to the public interest test. In this particular case it is considered that the public interest in releasing the information does not outweigh the public interest in withholding the information. The working group need to have a safe space in which to debate issues and reach decisions away from external interference and distraction.

3. Opposition from other local authorities

Paragraph 25 of the report to Scrutiny on 22nd January 2020 correctly identifies the status of responses outlined in your question from neighbouring Councils and Town and Parish Councils. However, officers have revisited the responses from Horsham and Wealden District Councils and notes that these responses have been categorised as neutral and should have been identified as objections.

However, details of the objections are outlined in the Committee report and so categorisation of the representation does not bear any relevance to the approach taken by the Council when considering the representation.

4. Sites SA12 & SA13 v Haywards Heath Golf Club

The Scrutiny Committee in September considered the options and so agreed to the option containing sites SA 12 and 13.

A planning application is a separate process to the site allocation process. Planning applications are considered against the policies in the District Plan.

Kind regards,

Councillor Neville Walker
Chairman of Scrutiny for Planning, Housing and Economic Growth

From: info@soflag.co.uk <info@soflag.co.uk>

Sent: 06 March 2020 17:14

To: Neville Walker (Cllr) <neville.walker@midsussex.gov.uk>

Subject: 11 March Scrutiny Committee - Site Selection process already unsound?

Dear Councillor

Scrutiny Committee for Housing, Planning & Economic Growth: 11 March 2020

I am writing to you on behalf of the South of Folders Lane Action Group (SOFLAG) and its over 1,000 supporters about the Site Selection DPD consultation process. In particular, the selection of sites SA12 and SA13, to the south of Folders Lane, in Burgess Hill.

The site selection process has only been through the first consultation stage, and we have serious concerns about the process so far which could mean you are prevented from making a fully informed decision.

These are detailed below, and we ask you to raise them for scrutiny at your meeting on 11 March.

1. Critical Responses Omitted from Consultation Report:

When the Site Selection Consultation Report was published on the MSDC website in advance of your last Scrutiny Committee Meeting on 22nd January, both the SOFLAG and the Broadlands Residents Association's responses, were missing.

These two comprehensive responses were both highly critical of Sites SA12/13 and would have provided Councillors with important evidence explaining why these sites are unsuitable.

When we pointed this out to MSDC staff, we were assured it was an oversight and the 57 missing pages were added to the online document – but on 27th January i.e. after the Scrutiny Committee. We were told that these pages were not missing from the one hard copy available for Councillors in the Members Room, but how many Councillors would have been able to consult the thousand pages of this one copy before the meeting?

Councillors would not have known that the online version was missing these two submissions and therefore the Scrutiny Committee had been scrutinising an incomplete document.

It was missing important information which was critical of the site selection process and which highlighted reasons why the decision to include Sites SA12 and SA13 was incorrect. To exclude this from the online report, even if an "oversight", suggests the process is, from the start, biased in favour of including Sites SA12 & SA 13. This makes this stage of the Site Selection DPD process unsound.

We have attached to this email copies of these two previously missing submissions for your information.

2. Refusal of requests for transparency around site selection:

SOFLAG has been trying to establish why the fields south of Folders Lane were preferred to Haywards Heath Golf Course. The Golf Course site seemed to perform better against the selection criteria. It also delivered a higher number of houses distributed more evenly across the district.

We have asked via a Freedom of Information request to see the notes from the Working Group which made that decision. However, MSDC have twice refused our request. We have now escalated this to the Information Commissioner and are awaiting the decision. This is not the first time that MSDC refusal to release information relating to Planning has been brought to the ICO. In May 2019 for example, MSDC lost a case relating to disclosure of figures around windfall developments when the Commissioner said in his judgement:

"Whilst the council argues that individuals without the necessary experience may misunderstand the information this argument does not outweigh the public interest in the public having the ability to, where necessary, ask questions of the council" (ICO ref FER0804951)

SOFLAG believes that the site selection process so far has not been transparent and is therefore unsound.

3. Opposition from other local authorities

We are concerned the Minutes of your meeting of 22nd January include a very misleading statement from Andrew Marsh, Business Unit Leader for Planning Policy, about the site selections. He said in the meeting (as was reported in the Minutes):

"Objections were predominantly from residents to the proposed sites" [and there were] "indeed no objections from neighbouring authorities"

However, we believe this implies, wrongly, that there is no opposition from any councils or statutory consultation authorities. This is not the case.

In fact, strong objections to sites SA12 / 13 were made by:

- Burgess Hill Town Council
- Haywards Heath Town Council
- Lewes & Eastbourne Borough Council
- Hassocks Parish Council
- Ditchling Parish Council
- South Downs National Park

In addition, the following also had various objections:

- Wealden District Council objected to SA20 / SA26
- Horsham District Council & West Sussex County Council are listed as objecting to SA9
- Felbridge Parish Council & East Grinstead Town Council

4. Sites SA12 & SA13 v Haywards Heath Golf Club

We remain at a loss to understand why SA12 & SA13 were selected ahead of Haywards Heath Golf Club, and the refusal by MSDC officers to answer our FOI request as detailed above raises more questions than it answers.

A planning application for the Golf Club has now been submitted (DM20/0559). This would allow MSDC to proceed without delay with Option 3, providing more homes and a more robust 5 year housing land supply buffer than Option 2. It would also alleviate concerns about maintaining housing targets in the immediate future. Housing would also be distributed more evenly across the district – Burgess Hill already has a strategic allocation of over 3000 in the District Plan compared to zero for Haywards Heath.

Attached is a table comparing the sites. You can see clearly that the man-made Golf Club site is more suitable and sustainable than the fields south of Folders Lane.

At the Scrutiny Committee on 11 March you have the opportunity to rectify this and recommend that the Site Selection change to Option 3.

Thank you for reading this email and attached documents. We hope these facts will enable you to fully scrutinise the sites and reassure our supporters that this process is indeed 'sound'.

If you have any questions, please get in touch.

Yours faithfully

SOFLAG

Appendix 5 H

APPENDIX 1

SITE ALLOCATIONS DOCUMENT MEMBERS WORKING GROUP

Terms of Reference

Membership

7 members, politically balanced, comprising six Conservatives and one Liberal Democrat to advise the Scrutiny Committee for Community, Housing and Planning. Members of the Working Group will make every effort to attend all meetings.

Objective of the Working Group

To advise the Scrutiny Committee for Community, Housing and Planning on the content and direction of the document. This will include the preparation of the Plan and consideration of the evidence base that will inform the preparation of the document.

The Working Group will report back to the Scrutiny Committee for Community, Housing and Planning in accordance with the timetable for the preparation of the Site Allocations Document as set out in the adopted Local Development Scheme.

The Working Group will meet regularly, at least on a monthly basis, with the potential for more frequent meetings as required.

On completion of this task the Working Group will cease to be in operation unless otherwise agreed by the Scrutiny Committee.

FROM REPORT OF DIVISIONAL LEADER FOR PLANNING AND ECONOMY TO SCRUTINY COMMITTEE FOR HOUSING AND PLANNING, 14TH NOVEMBER 2017

Appendix 5 I

Amendment tabled at MSDC Council Meeting, 25 September 2019

Agenda Item 7 TABLED - AGENDA ITEM 7: SITE ALLOCATIONS Council – 25 September 2019

7. Site Allocations Development Plan Document - Draft Plan for Consultation.

Amendment to the item:

Proposed by: Cllr Alison Bennett
Seconded by: Cllr Sue Hatton

Council commends the considerable effort of both Officers and Members in bringing the Site Allocations Development Plan to this point, but notes that since May 2019:

- The Site Selection Working Group has met only once
- The Working Group did not have a Chair
- The solitary meeting was scheduled at short notice
- Several members of the group were consequently unavailable
- The Group did not therefore have political balance
- The Group also did not have geographical balance, with the south of the Mid Sussex not being represented
- Despite these shortcomings the site list was shortened from 47 to 22

Therefore Council agrees that the Draft Site Allocations Development Plan Document be referred back to the Scrutiny Committee for Housing Planning and Economic Growth with the mandate to set up a renewed, politically balanced Site Selection Working Group to repeat Step 4 (Detailed Evidence Testing, Site Selection Paper 3), thus enabling members of this Council to have confidence in the transparency of the process and the site allocations that are recommended.

Conclusion

The MSDC Site Selection process has not been carried out in accordance with the criteria set out by MSDC at the start of the process. Grave errors have been made by those responsible for the process and the decision making. This renders the final recommendations undeliverable and fatally flawed. Sites SA12 and SA13 are clearly unsuitable for development and while MSDC recognise this, they have included them amongst the sites selected.

In summary:

1. MSDC assessed the sites as unsuitable in 2007, 2013 & 2016.
The reasons for their unsuitability have escalated since then, making the sites undeliverable in 2020. These include:
 - a. Inadequate local transport infrastructure for which there is no potential feasible solution.
 - b. Unsuitable & unsustainable location
 - c. Unacceptable coalescence between Burgess Hill and the villages to the south
 - d. Ecological damage to one of the most important and ecologically diverse sites in West Sussex
2. Omission by MSDC of key adopted District Plan selection criteria (including policies DP12, DP13, DP37, DP38) from the site selection process, which, if applied correctly, make the sites unsuitable & undeliverable. The adopted District Plan declares that Burgess Hill should not take any more sites.
3. Verified ecological data clearly indicates that SA13 is the habitat for an exceptional variety of internationally and nationally protected species. This renders it unsuitable for development.
4. Opposition to the sites from local authorities and statutory bodies makes them undeliverable.

MSDC's handling of the Site Allocations process in preparing the DPD was unsound. The reasons for this include:

- Reliance on a flawed Transport Study containing errors and omissions
- Misleading of key Council Meetings by MSDC Officers and Councillors
- Mishandling of Regulation 18 Consultation by MSDC with objections and evidence omitted
- Selection criteria inconsistently applied to sites during process
- A serious cloud hanging over the final site selection recommendation decision

To avoid the Site Allocations DPD being rendered unsound, Sites SA12 & SA13 should be removed from the list of sites selected for development.

Mid Sussex Sites DPD Review of Transport Aspects of Proposed Folders Lane Allocation

Folders Lane, Burgess Hill, West Sussex



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4	Folders Lane Allocations in the Sites DPD	10
5	Summary and Conclusions	13

Issue	Issue date	Compiled	Checked	Authorised
1	08/04/2020	RN	RW	LNS
FINAL	04/05/2020	RN	RW	LNS

1 Background

- 1.1 The Mid Sussex Transport Study (MSTS) supported the Mid Sussex District Plan (MSDP) which was adopted, after Examination in Public, in March 2018. The Mid Sussex Strategic Highway Model (MSSHM) is an updated MSTS with a 2017 base year.
- 1.2 All modelling (MSTS and MSSHM) is highway only. There is no mode choice modelling, and no variable demand modelling (i.e. changes in demand related to the availability of transport capacity).
- 1.3 MSSHM has been used in consideration of the Reference Case (RC) and several different development Scenarios (No.s 1-8) for the 2031 end-of-plan-period future year. Most recently, it has been used in the assessment of the Sites DPD Scenario. The Sites DPD Scenario represents a refined Scenario (drawing on the overall assessments of the previous Scenarios 1-8) as part of the council's plan making process, including sustainability appraisal.

2 MSSHM Model Review

- 2.1 MSSHM model validation is stated in the Local Model Validation Report (LMVR) to be acceptable against standard WebTAG guidance. The LMVR includes some details of the new travel data used in the model update and concludes that the updated trip data model base is acceptable. This appears to have been accepted by WSCC as highway authority.
- 2.2 Model trip validation has two component levels: cordon/screenline validation (ensuring broad directional movements are correct in aggregate across multiple roads/links, i.e. a check of the trip origin / destination modelled matrices against actual cordon/screenline flows at generally sector level) and individual link validation (comparing modelled and actual flows on a link basis, i.e. a check that the assignment of trips to the network is reasonable).
- 2.3 Different levels of acceptability apply in the modelled against actual comparisons for the two levels. The LMVR gives the comparisons for the selected cordons and screenlines. The comparisons shown are acceptable generally, and specifically for the District cordon and the Burgess Hill cordon, both of which include sites within the vicinity of Folders Lane. The comparison on a link basis is shown in Appendix B of the LMVR. The comparison for road links in the vicinity of Folders Lane appears acceptable.
- 2.4 In forecast use of the model, new development trip generations are calculated using trip rates derived from TRICS. The same trip rates are used for both committed and other development included in the RC and for additional development in any other Scenario tests. The rates are all 85%ile instead of the usually used average. We consider them robust – if anything somewhat high in practice because of the use of 85%ile values.
- 2.5 Trip distributions for new sites (i.e. where generated trips would go to, and attracted trips come from), including for any sites off Folders Lane, are based on the established distributions in the model for nearby similar zones & Census journey to work data. This is a conventional and acceptable approach and should properly represent the trip making characteristics of new development in any given location.
- 2.6 The highway network represented in the model appears reasonable in coverage. The LMVR states that a range of attributes have been used to determine the cruise speed for highway links and that is usual. However, the process adopted to combine those attributes has not been explained. One such attribute is the speed limit on the link. Figure 6 in the LMVR shows the speed limits assumed for each highway link. There appear to be two discrepancies that could have an impact on the assignment of base year and forecast year traffic to the network:

- The B2112 from Folders Lane roundabout north to Janes Lane is shown as having a 30mph speed limit – in reality most is 60mph;
- The B2112 on the approach to Ditchling from the Folder Lane direction is shown partly as 60mph (correct) but 40mph on the entire stretch approaching Ditchling crossroads – in reality the final section approaching Ditchling crossroads is not only 30mph but has traffic calming in place that would reduce cruise speed substantially below that.

2.7 Without knowing the way in which those descriptions have been translated into the network as included in the SATURN highway model, it is not possible to determine their influence, but the links in question would be important in the model's determination of route shares for north/south traffic generally, and specifically for new traffic generated by any new development served from Folders Lane.

3 Traffic Modelling Supporting the Sites DPD

- 3.1 The RC is defined in the Sites DPD Scenario modelling report (para 1.5.2) as being: *The Reference Case represents the road network in 2031, and includes any committed highway infrastructure, development in the district and background growth to this date.* The RC Scenario therefore includes a number of currently committed highway improvements, planned development between 2017-2031 in all other local authority areas, and new committed dwellings from 2017 to 2031 in Mid Sussex. The Mid Sussex commitments figure included in the Sites DPD modelling is stated as 10802 dwelling units, including windfalls, in the Sites DPD Scenario Modelling Report Table 2. The MSDP itself quotes, under Policy DP4, 2410 new dwellings built from 2014-2017 and 7091 “commitments within the planning process”; a total of 9501, quoted in the MSDP as “leaves sites for a minimum of 3389 dwellings to be delivered through further site allocations or windfalls”.
- 3.2 The highways impacts of the Sites DPD compared to the RC and the 2017 base year are reported in the Sites DPD Scenario Modelling Report. Total new housing from 2017-2031 is 12646, an increase on the RC Scenario of 1844 (data from the Sites DPD Scenario Modelling Report Table 2). In addition to the RC developments, the Sites DPD Scenario includes a further 21 housing development sites and 8 additional employment development sites. Of those, Sites 827 (43 units) and 976 (300 units) are served from Folders Lane.
- 3.3 Differences between the actual numbers quoted in the MSDP and the Sites DPD Scenario Modelling Report are understood to result from continuous updating of completions and commitments over time.
- 3.4 The RC therefore already includes a significant amount of new development within Mid Sussex from 2017 up to 2031. The additional development included in the Sites DPD is a relatively small additional increase.
- 3.5 Although the RC contains some already committed highway schemes, no further improvements are proposed to satisfactorily accommodate the increased highway demands of the substantial development accounted for between 2017-2031 in the RC both within and outside Mid Sussex. The end result is that many junctions within the district are forecast in the Sites DPD Scenario Modelling Report to experience a ‘Severe’ impact.
- 3.6 ‘Severe’ as an impacts measure derives from its use in the National Planning Policy Framework (NPPF). First published in March 2012, the term in this context appears in paragraph 32:

Paragraph 32: All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and

decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

3.7 Most recently updated in February 2019, the relevant paras are now:

108. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

3.8 It is interesting to note the changes between the last bullet point of NPPF 2012 para 32 and its replacement NPPF 2019 para 109. The most fundamental is the inclusion in para 109 of 'unacceptable impact on highway safety'. In the Sites DPD Scenario Modelling Report, as in preceding modelling reports, the RC has been used to establish a base line against which any additional highway network impacts of a development scenario can be judged. But the identification of impacts has been solely on the basis of severity of traffic operational impacts on the highway network, with no regard given to any specific impacts on highway safety or their acceptability. It has to be acknowledged however that this is not unique to the modelling and presentation of results for Mid Sussex. To its credit, that modelling has attempted to define 'severe' or at least to set out a set of, albeit arbitrary, operational criteria that is agreed by WSCC. Whilst we consider that the adopted criteria are not unreasonable, we do have concerns over the way they have been applied.

3.9 Those concerns centre on the implied consequences of the criteria adopted to define 'severe' (and of 'significant' which is a lower level of impact used in the MSSHM reporting). These criteria are set out in the Sites DPD Scenario modelling report as:

SEVERE An increase in RFC of 10% or more to 95% or more, or
 An increase in Delay of 1 minute or more to 2 minutes or more.

SIGNIFICANT An increase in RFC of 5% or more to 85% or more.

3.10 The concerns are twofold:

- All severity assessments using these criteria are relative. A junction with clear capacity problems in a Scenario, including base year (e.g. excessive RFCs, queues and delays) would not be identified as being an issue in the network if it had those problems in another comparison Scenario but the incremental change did not comply with the criteria;
- In reality, if the prior situation is a severe impact, ANY additional traffic from additional development would increase that severity. In our view, the RC and ALL additional development scenarios should be judged against the base year. We do not agree with the incremental approach used in MSSHM reporting, i.e. the RC is judged against the base year, but other scenarios are judged solely against the RC.

3.11 Nonetheless, even using the incremental approach, of the junctions within the district selected for impacts summarisation in the Sites DPD Scenario Modelling Report ¹. 22 are forecast to experience a 'Severe' impact in terms of changes from the 2017 base to the 2031 RC Scenario, 11 of which are in the south of the district including Burgess Hill. The DPD Scenario modelling report further identifies that in the Sites DPD Scenario, 9 junctions in total (of which 7 are in the south of the district) would experience an incremental 'severe' impact between the RC and Sites DPD Scenarios, 3 of which would experience the 'double whammy' of severe incremental impacts in both RC and Sites DPD Scenarios.

3.12 A further 2 junctions, not experiencing a severe impact between 2017 and RC Scenario, would be 'severely' impacted by the Sites DPD Scenario compared to the RC. A further 8 junctions would experience a 'significant' impact as a result of the Sites DPD Scenario compared to the RC, 4 of which would also experience a Severe impact between 2017 and 2031 RC Scenario.

¹ Un-numbered Table at end of report, titled 'Mid Sussex Transport Study: Scenario DPD Results Summary'. The junctions selected for inclusion in the table are defined as 'Junctions identified in previous Scenarios or in the previous Mid Sussex Transport Study which, for consistency, are retained in the list even if no significant or severe impacts are identified in the Sites DPD Scenario.'

- 3.13 All this demonstrates that the district's highway network is forecast to experience widespread severe highways operational impacts on at least major routes by 2031 with the substantial amount of committed development in the RC alone, with the prospect of significant additional severe impacts just from the addition of a further 1844 dwellings on the Sites DPD sites (Sites DPD Scenario Modelling Report Table 2). It is questionable, in those terms, that such a small number of extra dwellings is justifiable given the scale of their extra impacts on the operation of an already stressed highway network.
- 3.14 In an attempt to address that, an additional DPD Scenario, 'with mitigation', includes (para 1.5.4 of the modelling report) *"Where junctions are assessed to be adversely impacted by the developments, a set of appropriate sustainable measures and highway mitigation schemes are proposed and tested. These mitigations aim to remove the 'severe' impacts"*.
- 3.15 On the face of it, the mitigations proposed are a success in dealing with the extra impacts of the Sites DPD development compared to the RC. The modelling report shows that the inclusion of the identified mitigations would reduce or offset the bulk of the additional impacts of the Sites DPD sites. In fact, the results suggest that the mitigations proposed can help to partially offset the scale/severity of impacts of the RC itself compared to the 2017 base year. A remarkable consequence that demands some consideration and explanation.
- 3.16 The mitigations proposed are twofold: measures to enhance sustainable transport use, and additional highways improvements. Testing of the two components individually has not been reported as having been carried out, but they are likely to have very different effects.
- 3.17 The 'sustainable measures' mitigations proposed are, in the main, pretty low key, being the type of measure (RTI summary display on site) that would be expected to be provided as a standard conventional part of any Travel Plan for any of the 21 DPD sites (and indeed any other major site). Some more ambitious sustainable proposals are also put forward, including bus priority on A22 in the north of the district and improved public transport interchange facilities at Burgess Hill. The latter is put forward as the sole relevant 'proposed sustainable mitigation improvements' relating to many DPD sites in Burgess Hill (Table 7 of the Sites DPD Scenario modelling report) even though its extent, location and funding is not yet determined. Generally, Table 7 shows the anticipated effects of the conventional sustainable measures to be a 1.5% reduction in car trips – to all intents and purposes, although worthy in intent, immaterial in terms of consequential reductions in traffic, and impacts, at nearby junctions.
- 3.18 Highways mitigation identified is focussed on the A23 and its junction with A2300 and these measures, rather than the sustainable mitigations, would clearly have the only real impacts on

network performance in the south of the district, not simply by providing better for traffic generally but also because, following implementation, traffic would re-route from other junctions potentially reducing impacts at those junctions to acceptable levels.

- 3.19 It seems very clear from the above assessment of the results of modelling different Scenarios for the 2031 end-of-plan-period forecast year, that the package of highway improvements already committed and included in the RC Scenario is not sufficient on its own to enable the level of development included in the RC alone to be delivered without widespread highway network 'severe' impacts.
- 3.20 It is also clear that the contribution of sustainable transport initiatives to resolving the additional impacts of additional Sites DPD sites would be marginal at best.
- 3.21 It is also clear that the Sites DPD additional highway mitigation, focussed on the A23 and its junction with A2300, is not only important to mitigate the additional traffic demands of the Sites DPD sites, but is also essential to enable the impacts of the RC itself (i.e. without any additional Sites DPD sites) to be potentially considered tolerable.

4 Folders Lane Allocations in the Sites DPD

- 4.1 The Sites DPD includes two sites served, in part of whole, using Folders Lane: Sites 827 (43 units, served directly from Folders Lane) and 976 (300 units likely served directly from Keymer Road). Applying the trip rates used in the MSSHM modelling the two sites would be expected to generate the following 2-way vehicle trips in the peak hours.

Table 3.1

Site	AM Peak (08:00-09:00)	PM Peak (17:00-18:00)
Site 827	25	27
Site 976	176	189

- 4.2 The effects of sustainable transport mitigation measures for these two sites have been estimated as a 1.5% reduction (Sites DPD Scenario modelling report Table 7). This would very slightly reduce the above to:

Table 3.2

Site	AM Peak (08:00-09:00)	PM Peak (17:00-18:00)
Site 827	25	27
Site 976	173	186
Total	198	213

- 4.3 Assuming that traffic to/from both sites distributes 25% each to Keymer Road south, Keymer Road north, Kings Way, and via the B2112 junction (Folders Lane roundabout) at the eastern end of Folders Lane, this could add 142 vehicles in the AM peak, and 153 in the PM peak, to traffic flows entering the roundabout at the western end of Folders Lane, and between 50 (AM) and 53 (PM) to traffic flows entering the Folders Lane roundabout at its eastern end.
- 4.4 From the un-numbered results table towards the end of the Sites DPD Scenario modelling report, flows on Folders Lane appear pretty consistent at under 600 vehs/hour in the main direction in both peak hours in base year and forecast years for non-DPD Scenarios. This would equate to about 1000 vehs/hour 2-way in each peak hour. Link capacity of a road such as Folders Lane would be about 1500 vehs/hour 2-way according to DMRB TA79/99. The increase of 142-153 vehicles at the western end of Folders Lane arising from the Folders Lane sites would be about +15% but would

not compromise the ability of Folders Lane itself, in link capacity terms, to safely and operationally accommodate the forecast levels of traffic on it, even accounting for the two DPD sites.

- 4.5 Impacts on junctions themselves are more difficult to ascertain. The Sites DPD Scenario modelling report only includes the results for the western junction of Folders Lane with B2113 Keymer Road (for the first time; it was not included in any previous DPD Scenario testing modelling reports). That junction is given the number S27 in the Sites DPD Scenario modelling report.
- 4.6 Junction S27 is assessed in Table 7 as not experiencing a severe or significant impact in the RC (compared to the base year) and experiencing only a 'significant' impact in the Sites DPD Scenario (compared to the RC) but only in the 'with Mitigation' Scenario.
- 4.7 We have considered the results as presented in the Sites DPD Scenario modelling report. We also use the junction daily at many different times and appreciate the way it works in practice. We would agree that the junction generally operates at present without excessive queues or delays, other than, in our experience, some issues related to lack of exit capacity on the northern exit at some times of the day, partly due to the schools but largely due to blocking back from the roundabout junction of Keymer Road with Station Road, Junction Road and Silverdale Road (junction S6 in the Sites DPD Scenario reporting).
- 4.8 Junction S6 is assessed as having a severe impact comparing RC and base year, and a severe incremental impact in the 2031 Sites DPD Scenario compared to the RC. But the impact at Junction S6 is assessed as neither severe nor significant in the Sites DPD + Mitigation Scenario, despite the relevant values being barely different from the without mitigation case but with the two falling marginally either side of the criteria values.
- 4.9 The actual consequence in junction operation would be indistinguishable. In practice in all 2031 Scenarios junction S6 would operate at well over capacity with excessive RFCs, queues and delays, in all Scenarios greater than in the base year. The operation of the Folders Lane/ Keymer Road junction (junction S27) would increasingly be impacted by the inadequacies of Junction S6 and this could only be exacerbated by new traffic generated by the Folders Lane allocation in the Sites DPD.
- 4.10 No results are published for the junctions of Folders Lane with Kings Way, and with B2112 at Folders Lane roundabout, so it is not possible to comment on their performance under different Scenarios. At Ditchling crossroads, the impact of the RC compared to the 2017 base year is shown to be Severe, with an additional incremental significant impact in the Sites DPD Scenario (which is offset in the 'with mitigation' Scenario). No information is provided for the B2112 / Janes Lane junction to the north of Folders Lane roundabout although it would be considered unusual if there was not an impact of note at least in the RC case, as we understand that traffic signals were agreed at that

junction as part of the mitigation necessary for the large, approved Kings Way development. Both junctions would be affected in unquantifiable ways by the link description anomalies identified in the MSSHM Model Review section above.

5 Summary and Conclusions

- 5.1 The Mid Sussex Transport Study (MSTS) supported the Mid Sussex District Plan (MSDP) which was adopted, after Examination in Public, in March 2018. The Mid Sussex Strategic Highway Model (MSSHM) is an updated MSTS with a 2017 base year. MSSHM has been used in consideration of the Reference Case (RC) and several different development Scenarios for the 2031 end-of-plan-period future year. Most recently, it has been used in the assessment of the Sites DPD Scenario.
- 5.2 Model validation appears reasonable and the comparison of observed and modelled flows for road links in the vicinity of Folders Lane appears acceptable.
- 5.3 There may be an issue with the way in which the B2112 from Janes Lane to Ditchling crossroads is described in the assignment model. Without knowing the way in which those descriptions have been translated into the network as included in the SATURN highway model, it is not possible to determine their influence, but the links in question would be important in the model's determination of route shares for north/south traffic generally, and specifically for new traffic generated by any new development served from Folders Lane.
- 5.4 The network impacts of various Scenarios is assessed in the study reports by reference to their severity, but we have concerns about the criteria adopted to define 'severe' and 'significant' (which is a lower level of impact used in the MSSHM reporting).
- 5.5 We have assessed that Folders Lane currently has traffic flows that are well within its capacity in link terms. Traffic generated by the Sites DPD allocations for sites served from Folders Lane would not compromise that.
- 5.6 At the western junction of Folders Lane with Keymer Road (Junction S27), the Sites DPD assessment suggests that there would be no impact (Severe or significant) in the RC, and only a significant impact in the Sites DPD 'with mitigation' Scenario. We believe that this misrepresents the way that the junction works in conjunction with the much more heavily impacted junction (Junction S6) of Keymer Road / Station Road / Junction Road / Silverdale Road to the north. The study report concludes that Junction S6 would experience a severe impact comparing RC and base year, and a severe incremental impact in the 2031 Sites DPD Scenario compared to the RC. But the impact at Junction S6 is assessed as neither severe nor significant in the Sites DPD + Mitigation Scenario, despite the relevant values being barely different from the without mitigation case but with the two falling marginally either side of the criteria values.

- 5.7 We believe that the actual consequence in junction operation would be indistinguishable. In practice in all 2031 Scenarios junction S6 would operate at well over capacity with excessive RFCs, queues and delays, in all Scenarios greater than in the base year. The operation of the Folders Lane/ Keymer Road junction (junction S27) would increasingly be impacted by the inadequacies of Junction S6 and this could only be exacerbated by new traffic generated by the Folders Lane allocation in the Sites DPD.
- 5.8 The reports present no information for the junctions of B2112 with Folders Lane or with Janes Lane to the north. Information is given for the junction of B2112 and B2116 at Ditchling crossroads. All three junctions would be affected in unquantifiable ways by the apparent B2112 link description anomalies we have identified. It is not possible to determine the level of influence, but the links in question would be important in the model's determination of route shares for north/south traffic generally, and specifically for new traffic generated by any new development served from Folders Lane.
- 5.9 It seems very clear from our assessment of the available results of modelling different Scenarios for the 2031 end-of-plan-period forecast year, that the package of highway improvements already committed and included in the RC Scenario is not sufficient on its own to enable the level of development included in the RC alone to be delivered without widespread highway network 'severe' impacts.
- 5.10 It is also clear that the contribution of sustainable transport initiatives to resolving the additional impacts of additional Sites DPD sites would be marginal at best.
- 5.11 It is also clear that the Sites DPD additional highway mitigation, focussed on the A23 and its junction with A2300, is not only important to mitigate the additional traffic demands of the Sites DPD sites, but is also essential to enable the impacts of the RC itself (i.e. without any additional Sites DPD sites) to be potentially considered tolerable.

-End of Report -



Civil Engineering - Transport Planning - Flood Risk

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Figure 1. *Continued*

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11. *Journal of the American Medical Association*, 2000; 284: 2689-2694.

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Table 1

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2378

Site Allocations DPD: Regulation 19 Consultation Response

Code: 1h

ID: 2378

Response Ref: Reg19/2378/

Respondent: Mr P Egan

Organisation:

On Behalf Of: Wellhouse Lane Residents Association

Category: Organisation

Appear at Examination? x

LDF Consultation
Planning Services Division
Mid Sussex District Council
Oaklands Road
Haywards Heath
West Sussex RH16 1SS



28th September 2020

Mid Sussex District Draft Site Allocations DPD Consultation Response

To The Government Inspector,

I am writing on behalf of the **Wellhouse Lane Residents Association** which covers the properties in Wellhouse Lane, Keymer to register our strong objections, on the grounds of soundness, to the inclusion of **Sites SA12 Land South of Folders Lane, Burgess Hill and SA13 Land East of Keymer Road and South of Folders Lane, Burgess Hill** in the draft Mid Sussex Site Allocations DPD under Regulation 19.

Wellhouse Lane is the area which will be most heavily affected should site SA13 receive approval for development and therefore we believe our voice should receive particular attention.

The lane consists of 10 properties the majority of which were built before the 1940s, one a listed building going back to 17th Century. The houses at the Eastern end of the lane face the South Downs National Park (SDNP) and one property abuts the site of the proposed development, but also forms part of the South Downs National Park so in effect the development will be adjacent to the National Park itself and infringe upon it.

There is a public footpath in the lane which takes ramblers and walkers to Ditchling and beyond. This route is very popular with both the townsfolk of Burgess Hill and ramblers from further afield. We are very lucky because it is on our doorstep but there is no price that can be put on the value of such a place to people who live in more urban areas and are in need of some space and tranquillity.

The value of this has been especially noticeable since the Covid-19 pandemic took hold as we have seen a huge increase in the amount of people who daily walk along the lane to enjoy the peaceful atmosphere and the wildlife which surrounds them. Allowing the general public a most welcome break from the stresses at this very difficult time cannot be over emphasised and this should be a material consideration which carries weight in any decision making.

In the last five years four of the ten properties in the lane have changed hands and the new owners with young families who aspired to live here because of its peaceful location now find that the very things which attracted them may be destroyed forever by an intensive urban development of 300 homes in the fields next to their properties.

One couple moved into the lane after living in Burgess Hill for 25 years having always enjoyed walking here with their children. They thought they were getting a life in the country but now that is being put in great jeopardy with the proposed

development on site SA13. People must be allowed to have dreams of one day living in properties which they aspire to own, if we devalue those properties by destroying the very things which make them aspirational then we destroy both those dreams and opportunities.

Opposition to these sites does not just originate from those living in our immediate vicinity but extends throughout Burgess Hill and beyond. To clarify, opposition can be found in all of the villages to the south, particularly, Hassocks, Keymer, Ditchling and Hurstpierpoint as well as by the South Downs National Park Authority.

This objection sets out why we believe this latest draft Site Selection DPD with regard to sites SA12 & SA 13 is unsound.

SA12 & SA13 Planning History

All development has to adhere to the policies and criteria contained in the NPPF & the local Development Plan, in this case the Mid Sussex District Plan. We will show that the inclusion of Sites SA12 & SA13 has clearly not met those policies and criteria.

These sites were assessed by MSDC in 2004, 2007, 2013 & 2016 and each time they were deemed to be unsuitable, undeliverable and most importantly unsustainable yet now for reasons totally unexplained by MSDC they believe none of these findings were correct and the sites can now go forward for development.

In 2004 the Mid Sussex Local Plan was submitted for assessment to the Government Inspectorate and the Inspector's findings on sites OMS01, 02 & 03 which now make up sites SA12 & SA13 was and I quote

"Development would compromise Strategic Gap. Sustainability of site is outweighed by adverse impact on character and appearance of the area."

"Site forms part of open countryside on edge of town and is an important lung of open space between Burgess Hill and Ditchling Common. No overriding reason why site should be released."

"Site is part of open countryside and is detached from built up area. Development would lead to serious and obvious erosion of Strategic Gap"

In 2007 MSDC submitted their Small Scale Housing Allocations Development Plan Document for inspection, in that was site ALT45 part of site SA13 today.

The Inspector concluded that even this limited area should not be allocated for housing stating: *"it would be difficult to design, lay out and landscape the site without knowing whether further development would follow. That risks an unacceptably intrusive development in open countryside"*¹

¹ 2007 Mid Sussex District Local Development Framework Small Scale Housing Allocations Development Plan Document, Schedule C to the Inspector's Report, para 1.213

In addition he concluded ***“To develop this site in addition would risk adding unacceptably to pressures on infrastructure including the local road network.”***²

In **2013** the Burgess Hill Assessed Sites Document included site 557 which formed part of site SA13 today and again this recorded the site as unsuitable with the following comments

- There is likely to be significant highways impacts on the local road network
- Site location is 150m from the South Downs National Park boundary at its closest point. Notwithstanding this buffer, there would need to be a thorough investigation of the visual impact of potential development on this designated area
- **Until the impacts on the highways network and the National Park are properly understood and evidenced, this site is assumed to be unsuitable for development.**³

In **2016** the Burgess Hill Assessed Sites Document again looked at site 557 and once again it was assessed as unsuitable with the following comments

- Most of the site has low landscape suitability for development.
- **The fields also have a time depth value as characteristic assarts⁴ with mature oaks.**
- There are potential significant transport impacts on the road network as a result of developing this site (in particular the east-west link issues in Burgess Hill).
- **Overall the site is considered unsuitable for development due to the unknown impact on the highway network.**⁵

It was reported that Albert Einstein once said **"the definition of insanity is doing the same thing over and over and expecting different results"**.

The question now has to be asked of Mid Sussex District Council, are they competent to run our affairs or are they in fact incompetent for yet again trying to include these sites for development without any resolutions or changes to the known problems of the last two decades?

² Ibid para 1.214

³ 2013 Burgess Hill Assessed Sites 557 (BH/D/21) Land south of Folders Lane and east of Keymer Road, Burgess Hill (Site H West)

⁴ The definition of an assart in the dictionary is an area of land that has had trees and undergrowth removed and the ground broken up in preparation for cultivation.

⁵ 2016 Burgess Hill Assessed Sites 557 (BH/D/21) Land south of Folders Lane and east of Keymer Road, Burgess Hill

SA13 and Planning Policies

This site covering the fields between the properties in Folders Lane, Burgess Hill and those in Wellhouse Lane, Keymer form the legal strategic/local gap between the two settlements, there is no other.

The **formal legal boundary** between Burgess Hill and Keymer is the end of the rear gardens of the houses on Wellhouse Lane behind which sits site SA13 therefore if SA13 is approved by Mid Sussex District Council (MSDC) for development **then MSDC will be in contravention of its own Development Plan**, in particular policies

**DP13 Preventing Coalescence,
DP6 Settlement Hierarchy and
DP12: Protection and Enhancement of Countryside.**

The issue of coalescence will impact everyone in Wellhouse Lane greatly due to the noise, light pollution and loss of wildlife habitat that will result from building 300 homes right behind us.

DP13 Preventing Coalescence states:

"Provided it is not in conflict with Policy DP12: Protection and Enhancement of the Countryside, development will be permitted if it does not result in the coalescence of settlements which harms the separate identity and amenity of settlements, and would not have an unacceptably urbanising effect on the area between settlements."

I intend to show later why developing this site will be in contravention of DP12 but for now I will focus on the issue of coalescence.

DP6 Settlement Hierarchy

The strategic objective of DP6 is very clear *"To promote well located and designed development that reflects the District's distinctive towns and villages, retains their separate identity and character and prevents coalescence"*

"Within defined built-up area boundaries, development is accepted in principle whereas outside these boundaries, the primary objective of the District Plan with respect to the countryside (as per Policy DP12: Protection and Enhancement of Countryside) is to secure its protection by minimising the amount of land taken for development and preventing development that does not need to be there."

The defined built-up area boundary of Burgess Hill is the rear gardens of the properties on Folders Lane beyond which lies the northern edge of site SA13.

The MSDC methodology to assess sites for inclusion in the SPD was clear, two basic issues were measured, 1. The degree of connectivity the site has with a settlement and 2. Their size. I quote:

"Sites with capacity to deliver growth significantly greater than required by the District Plan Strategy were considered to not conform to the strategy"

*"To assess the degree of connectivity sites within 150m of a built-up area boundary were considered in principle to function as part of that settlement **whereas sites beyond 150m were considered to be remote from a settlement.** Any site at which either or both of these issues were evident was not considered further."*⁶

The boundary between Burgess Hill and Keymer which marks the Southern edge of site SA13 is approximately 900 metres away from the Burgess Hill built up boundary therefore the overwhelming majority of the site must fail the above criteria and therefore should have been considered remote in terms of connectivity AND by MSDCs own methodology should not have been considered for inclusion in the DPD.

This gap is very important to Burgess Hill as it both re-enforces its identity as a market town while contributing to the semi rural lifestyle which residents consistently say they value highly.

In short **there is absolutely no basis** in planning policy for development of these fields and ergo the local/strategic gap. **Mid Sussex knows it has other more suitable sites which are both available, sustainable and deliverable which would provide an equivalent or higher number of housing numbers without the need to destroy this important local/strategic gap, its ecosystem and the wildlife that inhabits it.**

DP12: Protection and Enhancement of Countryside states

*The countryside will be protected in recognition of its intrinsic character and beauty. Development will be permitted in the countryside, **defined as the area outside of built-up area boundaries on the Policies Map, provided it maintains or where possible enhances the quality of the rural and landscape character of the District, and:***

- *it is necessary for the purposes of agriculture; or*
- *it is supported by a specific policy reference, either elsewhere in the Plan, a Development Plan Document or relevant Neighbourhood Plan.*

All of this site lies beyond the built up boundary of Burgess Hill and is outside of the area covered by the Burgess Hill Neighbourhood Plan, neither is it covered by the Hassocks Neighbourhood Plan so none of the above bullet points apply and it should be removed from the DPD forthwith.

⁶ Site Allocation Development Plan Document Site Selection Paper 3: Housing Sites Methodology para 3.3

SA12 and Planning Policies

Unlike SA13 this site does not directly abut the settlement boundary between Burgess Hill and another settlement **however it does directly abut the boundary with East Sussex and Lewes District and it will be visible from the South Downs National Park therefore it has to be considered against policy DP18 which states:**

*"Development within land that contributes to the setting of the South Downs National Park will only be permitted where it does not detract from, or cause detriment to, the visual and special qualities (including dark skies), tranquillity and essential characteristics of the National Park, **and in particular should not adversely affect transitional open green spaces between the site and the boundary of the South Downs National Park, and the views, outlook and aspect, into and out of the National Park by virtue of its location, scale, form or design.**"*

Site SA12 has already been the subject of a planning application by Jones Homes, **DM/19/0276**, which was withdrawn for reasons unknown to the public.

However, the response by the SDNP authority to this application was scathing and I quote:

*"The further expansion of residential development in this locality on open rural land outside the settlement boundary together with its associated infrastructure, would significantly reduce the landscape buffer up to the boundary of the National Park. In turn, such development is likely to detrimentally exacerbate the further urbanisation of this predominantly rural location, which is likely to be harmful to the special qualities and landscape character of the setting of the South Downs National Park. It is further considered that even with the combination of existing trees and planting, together with the proposed new landscaping would not mitigate for the loss and erosion of this valuable landscape buffer as an essential and effective soft-scape transition from the urban form to open rural countryside, in particular the South Downs National Park. **Therefore, the proposed development would result in substantial urban built form impact, extending out from the built up area of Burgess Hill, on a valuable and essential open green countryside location, in an incongruous and unnatural way, on the fringe of the wider countryside setting, harmful to the setting of the South Downs National Park.**"*⁷

SA12 also fails to meet the criteria already mentioned above allowing building in the countryside under policy DP12. In addition this site is bounded by a public right of way footpath ((PROW), so it has to be considered against policy **DP22** in which PROWs are described thus *"Public Rights of Way are identified as a **primary environmental constraint** to development in the Capacity of Mid Sussex District to Accommodate Development Study (2014, paragraph 6.9) due to both high environmental importance and the strong policy safeguards that apply to them."*

⁷ Letter to MSDC from TIM SLANEY Director of Planning South Downs National Park Authority on 5th August 2019 ref SDNP/19/03508/ADJAUT

DP22s strategic objective is and I quote

*"To create and maintain easily accessible green infrastructure, **green corridors and spaces around and within the towns and villages to act as wildlife corridors**, sustainable transport links and leisure and recreational routes;"*

Given 73 homes are currently being built directly to the West of SA12 it is difficult to see how this PROW can continue to act as a wildlife corridor if SA12 is also allowed for a development of a further 43 homes!

Legal Requirements

It is a legal requirement that in all its planning decisions MSDC is compliant with its own development plan (District Plan) unless material considerations allow otherwise.

This was confirmed by a 2017 judgment in the Supreme Court ⁸ where Judges Lord Neuberger, Lord Clarke, Lord Carnwath, Lord Hodge and Lord Gill stated

*"Planning law requires that applications for planning permission **must be determined in accordance with the [local] development plan**, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions".*

*"NPPF is divided into three main parts: "Achieving sustainable development" (paragraphs 6 to 149), "Plan-making" (paragraphs 150 to 185) and "Decision taking" (paragraphs 186 to 207). Paragraph 7 refers to the "three dimensions to sustainable development: economic, social and environmental". Paragraph 11 begins a group of paragraphs under the heading "the presumption in favour of sustainable development". Paragraph 12 makes clear that **the NPPF "does not change the statutory status of the development plan as the starting point for decision making"**.*

Therefore, as the official development plan for Mid Sussex, it is the policies within the District Plan that all planning decisions need to comply with and it is very clear that sites SA12 & SA13 conflict with a number of these policies, specifically policies DP6, DP7, DP12, DP13, DP15, DP18, DP22, DP26, DP29, DP37, DP38 & DP41.

⁸ Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council [2017] UKSC 37

Infrastructure Issues

There are severe transport restrictions to site SA13; this was recognised in the ATKINS study commissioned by MSDC in 2005 which stated very clearly that if this site and others such as SA12 on the Eastern side of Burgess Hill were to be developed then it was *"dependent on the implementation of an Eastern spine road/bypass which will result in significant infrastructure costs"*.

The reason for this was the increasingly pressing need for traffic to avoid the choke point of the railway crossing in Burgess Hill town centre which today already causes significant traffic jams during the peak periods along the Keymer Road, Folders Lane and through Station Road to Jane Murray Way.

Since that study was published planning permission for well over 1000 homes on the South Eastern side of Burgess Hill has been approved and building started on three large sites (Keymer Tile Works, Kingsway and Jones Homes Phase 1) not to mention the multitude of other smaller already completed developments in gardens along Folders Lane and the Keymer Road **yet no improvements whatsoever have been implemented to the local road network and the effects of these three large sites has still to be felt on the road network.**

This is not a new situation, MSDC themselves recognised this fact in the Mid Sussex Local Plan in 2004 when they said: Quote

"While access on the west side of the town has benefited from the new development, east-west movements across the town are hampered by the railway and the limited number of crossing points. A number of roads in the area lying to the east of the railway have restricted capacity and suffer from serious congestion at peak periods. There are no simple solutions to these problems and efforts will be made to encourage the increased use of local bus services".

Mid Sussex Local Plan Para 11.14 May 2004

Therefore, it is totally reckless for MSDC to now include sites SA12 & SA13 into any development plan unless a relief road or an alternative solution has been identified and agreed on as a pre-requisite PRIOR to planning approval being considered.

Recently the MSDC Assistant Chief Executive stated that Atkins is out of date but could not elucidate why. Instead MSDC is now relying on a French company called SYSTRA to underpin and update Mid Sussex's own Transport Study by carrying out desktop studies based only on eight different scenario's with scenario 8 being the one most relevant to sites SA12 & SA 13.

Whereas Atkins used real time traffic data to inform their decision there is no evidence of this with SYSTRAs findings. Instead they base their conclusions on a number of assumptions and it is notable that whereas Atkins specifically identified the B2112 & B2113 junctions i.e. the roundabouts at the junction of Folders Lane with the Keymer Road and at the Keymer Road with Station Road in the town centre as being major problems, SYSTRA and the latest MSDC Transport Study does not.

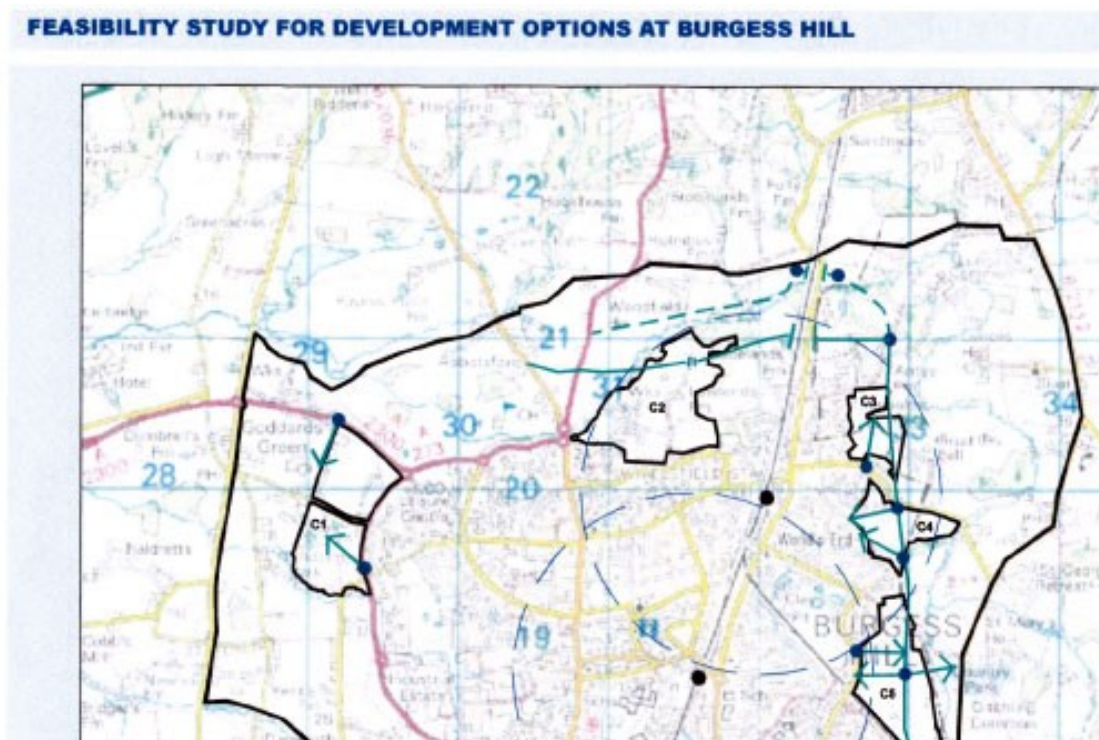
The junction with Station Road is mentioned in SYSTRA's findings as junction S6 and they recognise it will be severely impacted if SA12 & SA13 go ahead but unlike the other junctions that they forecast will be severely impacted they have NO mitigation proposals whatsoever as to how to reduce the impact this will have on the community.

Instead they focus on the congestion at the A23 & A2300 link road based on 2031 extrapolated traffic figures and the assumption that a Scientific & Technology Park will by then have been developed off the A23 South of Hickstead, an assumption which whilst admirable has no relation to existing real world facts.

In contrast this is what Atkins said in 2005

"In order to support the development of Option C an eastern spine road will need to be constructed linking to A273 Jane Murray Way and passing through sites C3, C4, C5, C6 and C7. It should be noted that the proposed link road alignment in Figure 6.1 (and Figures 7.1 - 7.2) represents one solution to linking the development sites and other alignments maybe possible. For example the south-eastern section of the Link Road could pass through Site C5 and connect to the existing Kingsway, rather than B2112/B2113 roundabout. However the development of this option would need to consider the impact on the B2113/Kingsway junction and how the link road would be connected to site C7."

Note Site C7 is site SA13 today and site C6 is site SA12 both shown in the diagram below.



The governments guidance document **Transport Evidence Bases in Plan Making and Decision Taking** which is intended to aid local planning authorities assess and reflect on the strategic transport needs in Local Plan making, states and I quote

"To assess the availability of the capacity of the road network, the transport assessment should take into account:

- *recent counts for peak period turning movements at critical strategic junctions, for example, in certain instances where there is known to be a significant level of heavy goods vehicles traffic, a classified count (identifying all vehicles separately) should be provided*
- *12 hour/24 hour automatic traffic counts*

Additional counts that may be required on the strategic parts of the road network could include:

- *manual turning counts (which should be conducted at 15 minute intervals) to identify all strategically relevant highway network peak periods*
- *queue length surveys at key strategic signal junctions to establish demand and actual traffic flows*
- *journey time surveys*
- *freight counts*
- *abnormal load counts*
- *pedestrian and cyclists counts*

Capacity assessments for roads, rail and bus should also be obtained."

Today long queues are already a fact of life at both the junctions mentioned by Atkins during peak periods and anyone who has resided in the area for at least 10 years will attest to the fact that the traffic levels are increasing sharply year on year.

The most recent empirical documented trip measures on the Keymer Road were taken in November 2016 by the developer for the refused planning application DM/16/3959 at a point south of the Folders Lane (B2113) junction with the Keymer Road. This data showed there were 46,138 vehicle trips over a 7 day period (including a weekend) along the Keymer Road, virtually all of which would have had to use the roundabout with Folders Lane.

That was four years ago, since when the road network has remained totally unchanged. For MSDC to now propose another 343 homes be built in this immediate vicinity, with access onto both the Keymer Road and Folders Lane, without ANY mitigation measures whatsoever only demonstrates the complete disregard MSDC has for this situation.

Impact on Local Residents

There is absolutely no doubt that developing sites SA12 & SA 13 will cause significant harm to the local area contrary to **NPPF paragraphs 14 & 49**.

Sustainability

The over riding requirement in the NPPF and the District Plan is that developments must be sustainable, one strand of which is the environment and the need to reduce dependency on the car by siting developments in proximity to high quality transport facilities within reasonable walking distances, thus encouraging residents to use public transport, cycle or walk.

Site SA12 is on the very Eastern fringe of the Burgess Hill area, some 2km from Burgess Hill town centre with a 30 minute walk to Burgess Hill train station and a very limited bus service of just one bus per hour during the day, none at night, on Sundays and in two cases on a Saturday either. **It is self evident that the vast majority of future residents will have no choice but to use their cars on a daily basis.**

The Transport Statement for the withdrawn application for 43 properties (DM/19/0276) on this same site stated that would generate **a minimum of 353 vehicle trips over a 12 hour period (0700 -1900) per day**. This is in addition to the 625 vehicle trips over the same period per day that was forecasted in the application for the 73 homes nearing completion on the adjoining site. **Conservatively this equates to an additional 978 vehicle trips over the period 0700 -1900 per day from this location.**

It is notable that the above application was eventually withdrawn, deemed invalid, by MSDC Planning due to the fact no transport assessment was submitted by the applicant.

Site SA13 whilst further West and thus closer to the Keymer Road is even worse. This site is very large some 15.3 hectares so it is highly unlikely that residents will walk the distance to the proposed exits at Broadlands on the Keymer Road and on Folders Lane **and then** face a 20 minute walk into town to catch trains or buses, **no they will rely heavily on their cars as we all have to do in this area.**

If we extrapolate the estimated traffic figures for the 43 homes on site SA12 to the 300 homes planned for Site SA13 then SA13 would produce 2,463 vehicle trips over the period 0700 -1900 per day.

In total these two sites would generate an additional 2,800 vehicle trips per day between 0700 - 1900 at the choke points of the B2112 & B2113 junctions, junctions already identified 15 years ago by ATKINS as being major obstacles to development in this area.

Once again the question has to be asked why does MSDC now believe sites SA12 and SA13 are sustainable locations?

Environmental Impacts : Ecology & Wildlife

Global warming, the environment and climate change is now right at the top of the political and societal agenda. Numerous initiatives continue to be put in place all over the world to offset carbon build up by planting trees and yet here is Mid Sussex District Council choosing to allow development on two sites which will result in the loss of THOUSANDS of trees.

These sites act as valuable breathing spaces for Burgess Hill and the surrounding villages and whilst not easily accessible to the public it is this very fact that has left them in an almost unique position.

For the past 27 years we have lived alongside site SA13 and have seen first hand how when left to its own devices how nature has taken hold so the site now contains literally tens if not hundreds of thousands of trees and shrubs, with many valuable species such as Hornbeam, Willow and Oak amongst them.

These fields haven't been farmed in well over a century, if at all, which is very rare these days and the absence of modern farming has left a unique habitat which is home to a multitude of birds and mammals from Barn Owls to Weasels. It is also home to some highly protected species such as Bats, Dormice and Great Crested Newts, not to mention the countless insects, moths and butterflies, some of which are scarce.

The recent photos below show just a very small area of site SA13 but this is typical for the whole 15.3 hectares so to lose such an environment in today's world when green space close to urban settlements is at a premium would be almost criminal and a huge mistake for Burgess Hill and Mid Sussex.











This was recognised in 2013 & 2017 when planning applications **12/03230 & DM/16/3959** to build houses in gardens directly bordering this site were refused and dismissed on appeal by the Govt Inspector. **One of the grounds for refusal was that ponds on the site were home to an important breeding colony of Great Crested Newts (GCNs) which as a European protected species and the rarest of the Newts found in the UK is afforded protection under the UK Biodiversity Plan (BAP).**

It was found that whilst the GCNs use the ponds for breeding the surrounding lawns are closely mown so they use the fields in SA13 to forage and it was also found that one of the ponds within the fields also had a small colony of GCNs so interbreeding could also be going on.

In July 1996 a study was carried out of one of the smaller fields (0.15hectare) which make up site SA13 by John Newton, BSc Zoology (Hons) FRES as part of a Phase 1 Habitat Survey of Burgess Hill by BHTC⁹. In this report he noted the field was quote *"unimproved grassland rich in native trees and shrubs, probably prone to wetness particularly towards the North East end"*. He also noted *"there is no easy access from nearby roads, almost certainly standing water in places in wet winters. Water table is probably fairly close to the surface throughout the year. THIS AREA MERITS FURTHER STUDY."*

His recommendation was *"this field requires a full survey by a team of trained botanists. It merits some degree of protection from development."*

South Downs National Park (SDNP) & Dark Skies

In May 2016 the SDNP became an International Dark Sky Reserve (IDSR).

The Northern boundary of the SDNP borders the properties in Wellhouse Lane and as there is no street lighting along the lane the whole area is exceptionally dark at night. Introducing an intensive housing estate on SA13 with all the associated street lighting will destroy this forever and may effect the SDNP rating as an IDSR.

Drainage & Sewage

Both SA12 & SA13 are classified as Low Weald with heavy clay soils which during heavy or persistent rainfall become heavily waterlogged and as both sites drop steeply from North to South the inevitable run off from a development could have serious impacts for the surrounding area. This issue was clearly recognised by the applicant for the aborted planning application **DM/19/0276** on site SA12 as they proposed to include swales, attenuation ponds, pumping station and an underground tank in a bid to avoid the risk of flooding.

The photograph below shows the typical surface flooding which occurs each year from late Autumn onwards across site SA13.

⁹ Folders Lane Survey Document: Survey of field about 200m south of Folders Lane 3rd August 2009
John Newton, BSc Zoology (Hons) FRES



View of site SA13 looking East circa 2012

SA13 has a long history of severe water logging. For a few years in the 2000s a couple tried to run a small holding on the land but in the end had to admit defeat and gave up because it was just too wet for their livestock. The photograph below illustrates this point.



In Wellhouse Lane during periods of heavy rain we suffer flooding over the lane from ground water running off the fields to the South into a watercourse which flows Northwards under the lane carrying the water onto site SA13. Due to the poor heavy clay soil once it reaches site SA13 it cannot drain quickly enough so the watercourse quickly backs up flooding the lane. The photographs below illustrates just how bad this can be.



Mr Scott Wakely the MSDC Drainage Engineer has seen these photographs and acknowledged there is a serious issue with drainage in this area, therefore to concrete over a site as large as SA13 with a development of 300 homes will have very serious consequences for the surrounding area.

Sewage is another serious issue, there is no mains sewerage South of Burgess Hill beyond Greenlands Drive until you reach the outskirts of Hassocks. All properties in between rely on septic tanks, cess pits or stand alone sewage treatment plants. Southern Water have confirmed the existing treatment plant at Goddard's Green has insufficient capacity to handle anymore large developments so this issue cannot be ignored.

Questions Around Due Process When Selecting Sites SA12 & SA13

MSDC and its councillor representatives have a clear responsibility to put forward the most appropriate sites for development. This democratic process should include proposed sites being scrutinised by a suitable delegation or committee, formed from an appropriate geographical spread in terms of constituency representation.

Since the SPD was decided and published it has come to light that the decision to include sites SA12 & SA13 did NOT follow due process. When MSDC established a committee to discuss and decide on which sites should be included in the SPD it contained eight councillors, four of whom represented wards in the South of the district, who were knowledgeable about issues in the area.

However, at the May 2019 elections three of these four councillors lost their seats and they were never replaced. This left just one councillor from Hassocks to represent the interests of Burgess Hill, Hassocks & Keymer. Despite this, a meeting of the committee was called at short notice in August 2019 when the final decision on which sites would be included in the SPD was decided. It is claimed that up to this point sites SA12 & SA 13 were NOT part of the SPD and instead a site on the Haywards Heath Golf Club for 500 homes was.

Unfortunately the councillor from Hassocks was on holiday when this meeting was called so could not attend and another councillor failed to attend on the day leaving just three councillors from Haywards Heath, East Grinstead and the High Weald as attendees. At this point the meeting should have been cancelled as the committee no longer complied with its terms of reference however it went ahead and it is reported that it was at this meeting that the decision was taken to remove the Haywards Heath GC site and replace it with sites SA12 & 13. The background to this decision has been requested under a FOI request but to date MSDC has not provided any information so until this question is answered then the whole process of selection and whether it was fair and proper is in doubt.

In conclusion we believe the SPD clearly fails to comply with MSDCs own methodology on the selection of sites and deliverability and in key areas ignores the policies in the NPPF & District Plan and therefore it is UNSOUND.

Sites SA12 & SA13 are not sustainable in any sense of the criteria within the NPPF and District Plan and if allowed for development will inevitably result in significant harm to the local area in contravention of the NPPF and the District Plan Policies DP6, DP7, DP12, DP13, DP15, DP18, DP22, DP26, DP29, DP37, DP38 & DP41.

For all of the reasons above and others not touched on such as limited access to GP services, Schools etc they should be removed from the Site DPD and replaced with more suitable and deliverable sites which MSDC already know exist within the district.

Yours Sincerely

Peter Egan

cc: Mr & Mrs M Wright, [REDACTED]
Mr & Mrs T Loughton [REDACTED]
Mr & Mrs R Boardman, [REDACTED]
Mr & Mrs D Gillett, [REDACTED]
Mr & Mrs H Powell, [REDACTED]
Mr & Mrs R Corbett, [REDACTED]
Mr & Mrs J Mathews, [REDACTED]
Ms T Reilly, [REDACTED]
Mr & Mrs S Willis, [REDACTED]