

Mid Sussex Local Plan 2014-2031
Site Allocations Development Plan Document
Examination
Inspector's Matters, Issues and Questions (MIQs) Discussion Note

Introduction

This note provides a summary of the matters and issues identified by the Inspector in the form of questions, and they will form the basis of the examination hearings which commence on [Tuesday xx xx 2021 at xxxx – likely to be early-mid June 2021]. The final hearing questions may be refined in the light of the Inspector's consideration of the hearing statements received prior to the examination hearings. The deadline for statements will be indicated in the forthcoming Guidance Note.

Please note that the **word limit** for hearing statements is 3,000 words per question, e.g. Matter 1.1 (i) (excluding supporting information, such as Appendices), or in the case of Matter 3.3, per allocation. Any statement which exceeds 3,000 words will be required to submit a summary of 10 per cent of the full statement or up to a maximum of 1,000 words, whichever is the shorter.

Matter 1 - Legal Requirements, Scope of the Local Plan and Duty to Co-operate

1.1 Legal Requirements:

- (i) *Does the Site Allocations Development Plan Document (which I will refer to as the Plan from now on) **meet all its legal requirements** (e.g. in relation to the Local Development Scheme; Statement of Community Involvement; and the Town and Country Planning (Local Planning) (England) Regulations 201 (as amended (2)? Are there any other legal compliance issues?*

- (ii) *Has the Council followed **due process** in its preparation of the Plan, including the process of site selection and public involvement?*

1.2 Scope of this part of the Local Plan

Summary of the scope of the Plan: *The main aims on page 4, paragraphs (i) to (iv), make clear reference to the Spatial Strategy in the adopted District Plan, which provide for the delivery of around **543 jobs per annum** from several sources, including a new science and technology park and several smaller employment allocations. The Plan also provides for a minimum requirement of **16,390 homes** between 2014 and 2031 (equating to 876 dwellings per annum (dpa) until 2023/24, increasing to 1,090 dpa from 2011-2029). The Spatial Strategy distributes new development based on a **sustainable hierarchy of settlement types**, with the employment and housing over the plan period focused on the largest settlement, Burgess Hill, and to a lesser extent in the other towns, Haywards Heath and East Grinstead, and smaller amounts in the villages. The Spatial Strategy makes additional strategic allocations at Hassocks in the south of the District, close to Brighton and at Pease Pottage, in the north of the District, close to Crawley, having regard to the housing needs of these two urban areas. The District Plan also aims to **conserve and enhance the environment**, including in the High Weald Area of Outstanding Natural Beauty (AONB), the Ashdown Forest 7km Zone of Influence and the setting of the South Downs National Park (SDNP), bearing in mind that the National Park is a separate local planning authority.*

- (i) *Is the scope of the Plan in line with the main aims and strategy of the District Plan as set out above, including as set out in the Executive Summary and in particular in relation to its four main aims which are set out on page 4 of the submitted Plan?*
- (ii) *Does the scope of the Plan accord with the Court of Appeal (COA) Judgment of Oxted Residential Ltd v Tandridge District Council (EWCA Civ 414; 29 April 2016)? This COA Judgment is in the Examination Library, and the paragraphs that I would particularly like to draw attention to are: 28, 31, 32 and 38. The third sentence of paragraph 38 states: **An Inspector conducting an examination must establish the true scope of the development plan document he is dealing with, and what it is setting out to do. Only then will he be able to properly judge "whether or not, within the scope and within what it has set out to do", it is "sound"** (Section 20(5)(b) [of the 2004 Act]).*
- (iii) *Does **policy SA GEN** adequately set out the general principles for the Site Allocations that are made in this Plan?*

- (iv) **Policies SA34 to SA38** are termed 'development policies' in the Plan; can they be considered to be strategic in nature, and if so, does that in any way set a precedent or even a requirement for the Plan to deal with other strategic issues, such as housing provision?
- (v) Does the Plan keep within its remit in relation the 'made' and emerging **Neighbourhood Plans** within the Plan Area?

1.3 Duty to Cooperate (DTC):

- (i) Is the DTC, which covers some strategic matters, therefore **applicable to this Plan**, as a 'Part 2' Plan, and if so, has the Council adequately discharged the DTC in preparing the Plan?
- (ii) In particular, does the Plan satisfy the DTC in relation to planning for the longer-term **growth of neighbouring areas**?

Matter 2 - Sustainability Appraisal (SA) and Habitats Regulation Assessment (HRA)

- 2.1 Is the Plan **supported by the SA and HRA**?
- 2.2 What evidence is there that the SA has influenced the Plan and/or undertaken a full assessment of **realistic alternatives**?
- 2.3 Do any adverse effects identified in the SA **require significant mitigation**, and how does the Plan address these issues? Has appropriate account been taken of the recent *People Over Wind & Sweetman v. Coillte Teoranta (C-323/17)* Judgment in the ECJ (often referred to as the *Sweetman 2 Judgment*)?

Matter 3 – Does the Plan deliver both the quantitative and qualitative aspects of housing provision in the District Plan to meet Mid Sussex's requirements over the plan period in accordance with national policy?

3.1 **New Homes Quantum (policies SA10 and SA11):**

- (i) Is the updated **Minimum Residual Requirement** for Mid Sussex, which has been reduced from 2,439 units in policy DP4 of the District Plan to 1,280 units in the submitted Plan, supported by the evidence?
- (ii) The Plan makes provision for 1,764 dwellings in its site allocations (SA12 -SA33), which amounts to an **'over-supply' or buffer of 484 dwellings** over the residual housing

requirement, which is identified as 1,280 dwellings in Table 2.3 of the Plan. Does this increased housing provision, which equates to 37.8% above the minimum residual requirement or 2.95% above the minimum District requirement of 16,390 dwellings over the plan period, amount to a **sufficient buffer** to enable the Plan to ensure there is enough flexibility of housing land over the plan period? If the Plan is found to be insufficiently flexible in this regard, what further steps should the Council take to rectify this? Are there any sound arguments to support the notion that the amount of the buffer is too great or has been incorrectly applied? Is the buffer excessive in relation to the requirements of paragraph 73 of the NPPF or Framework?

- (iii) Should an allowance for **non-implementation** be built into the Plan? Some parties have suggested a figure of 10%.
- (iv) The Council places a significantly high reliance on the **implementation of strategic sites** in policies DP9, DP10, DP11 and DP12 to enable the delivery of the District's objectively assessed need over the plan period. These four strategic sites are expected to deliver a total of 5,800 dwellings, or 35.4% of the minimum District requirement of 16,390 dwellings. Is this total realistically deliverable within the plan period, and if not, does the Council need to allocate further additional housing sites in this Plan?

3.2 **Proposed Distribution of new homes:**

Does the proposed distribution of the additional new homes in the allocations in the Plan (as set out in table 2.5) to meet the Minimum Residual Housing Requirement, accord with the principles of sustainable development, particularly as set out in policies DP4 to DP6 of the District Plan, including taking account of considerations such as:

- (i) Enabling the **most sustainable pattern of growth** for Mid Sussex, based primarily on the three towns, including the majority of development to be directed towards the town of Burgess Hill, and having regard to be sensitive to key environmental considerations, such as the setting of the SDNP, the High Weald AONB, the Ashdown Forest 7km Zone of Influence, landform and visual impact, conservation of important conservation and heritage assets, wildlife conservation and constraints such as areas at risk to significant flooding;

- (ii) *Providing development to meet **local needs in towns and villages** which offer key community facilities (including public transport) and some employment opportunities; where settlements have already met their minimum development requirement as set out in the table attached to policy DP4, is it appropriate for this Plan to allocate additional housing?*
- (iii) *Strictly controlling development in the **open countryside**;*
- (iv) *Maximising the re-use of **previously developed sites** which are sustainably located; and*
- (v) *With an expectation that development is required to provide infrastructure in accordance with the **infrastructure needs** of each town, the accompanying **Infrastructure Delivery Plan (IDP)** or other needs as they arise?*

3.3 **Housing Delivery over the Plan Period:**

*Does the Plan provide **sufficient evidence to demonstrate that the proposed new homes total in each of the allocations can be implemented over the plan period, in accordance with the housing trajectory?** Can each of the following housing allocations demonstrate their sustainability and deliverability in relation to the following considerations:*

- (i) *the willingness (or otherwise) of the landowner(s) to implement their sites on the basis of the relevant policy;*
- (ii) *safe and secure access, which can be provided within the ownership of the allocated site, or does the scheme rely on the acquisition of off-site land;*
- (iii) *any conflict with a made Neighbourhood Plan;*
- (iv) *any conflict with national planning policy;*
- (v) *any significant infrastructure considerations, including vehicular access, traffic circulation and highway and pedestrian safety, flooding, drainage and sewerage implications; are any of these 'showstoppers';*
- (vi) *any significant impact on the living conditions of neighbouring occupiers, or future occupiers of the proposed development;*
- (vii) *any significant impact on the quality of the landscape, e.g. the integrity of any green gaps, and the ecology of the site and the surrounding area, and proximity to ancient woodland;*

- (viii) *any impact on Conservation Areas, heritage assets or areas of archaeological significance;*
- (ix) *access to shops, schools, health provision and services, community facilities, public transport and employment, i.e. is the location sustainable;*
- (x) *contamination or other ground or stability issues; and*
- (xi) *any other material considerations which could impact on the sustainability of the proposed allocation?*

The housing allocations to which considerations (i) to (xi) apply are set out below:

- *Policy SA12 Land South of 96 Folders Lane, Burgess Hill [40 dwellings].*
- *Policy SA13 Land East of Keymer Road and South of Folders Lane, Burgess Hill [300 dwellings].*
- *Policy SA14 Land South of Selby Close, Hammonds Ridge, Burgess Hill [12 flats plus community use].*
- *Policy SA15 Land South of Southway, Burgess Hill [30 dwellings].*
- *Policy SA16 Land St Wilfrid's Catholic Primary School, School Close, Burgess Hill [200 dwellings].*
- *Policy SA17 Woodfield House, Isaac's Lane, Burgess Hill [30 dwellings].*
- *Policy SA18 Former East Grinstead Police Station, College Lane, East Grinstead [22 dwellings].*
- *Policy SA19 Land South of Crawley Down Road, Felbridge [200 dwellings].*
- *Policy SA20 Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead [550 dwellings].*
- *Policy SA21 Rogers Farm, Fox Hill, Haywards Heath [25 dwellings].*
- *Policy SA22 Land North of Burleigh Lane, Crawley Down [50 dwellings].*
- *Policy SA23 Land at Hanlye Lane to the East of Ardingly Road, Cuckfield [55 dwellings].*
- *Policy SA24 Land to the North of Shepherds Walk, Hassocks [130 dwellings].*
- *Policy SA25 Land West of Selsfield Road, Ardingly [70 dwellings].*
- *Policy SA26 Land South of Hammerwood Road, Ashurst Wood [12 dwellings].*
- *Policy SA27 Land at St Martin Close, Handcross [35 dwellings].*
- *Policy SA28 Land South of The Old Police Station, Birchgrove Road, Horsted Keynes [25 dwellings].*
- *Policy SA29 Land South of St Stephens Church, Hamsland, Horsted Keynes [30 dwellings].*

- *Policy SA30 Land to the North of Lyndon, Reeds Lane, Sayers Common [35 dwellings].*
- *Policy SA31 Land to the rear of Firlands, Church Road, Scaynes Hill [20 dwellings].*
- *Policy SA32 Withypitts Farm, Selsfield Road, Turners Hill [16 dwellings].*
- *Policy SA33 Ansty Cross Garages, Cuckfield Road, Ansty [12 dwellings].*

- 3.4 **Five Year Housing Land Supply:** *Would the Plan at adoption be able to demonstrate that it has a five-year supply of specific, viable and deliverable sites to achieve the Plan's requirements?*
- 3.5 *Is the reliance in the Plan on **windfall sites** [504 over the rest of the plan period] realistic?*
- 3.6 **Additional sites:** *Bearing in mind the above considerations, and the requirement of paragraphs 67 and 68 of the Framework, should the Plan identify an increased number of specific, deliverable sites in the form of housing allocations?*
- 3.7 *Has an allowance been made for **non-delivery** of planning permissions for new dwellings, and if so, what is it?*
- 3.8 **Qualitative aspects of housing supply:** *Is there a need for any qualitative parameters for housing provision in the Plan, such as provision for affordable housing, starter homes, older persons' accommodation (Use Class C2), care homes, accessible housing, student housing, self-build housing and accommodation for gypsies and travellers; on the latter point, does the Plan enable the implementation of District Plan policy DP 33 [Gypsies, Travellers and Travelling Showpeople]?*
- 3.9 *Is the range of the **size of housing allocations** in the Plan appropriate to address the qualitative requirements of the District?*
- 3.10 *Are there any **other housing issues** which this Plan should be addressing?*

Matter 4 - Are the Plan's provisions for the protection and enhancement of its environmental, landscape, biodiversity and heritage assets justified and in accordance with national policy?

- 4.1 *Are the **environmental, landscape, biodiversity and heritage** policies justified, effective and in accordance with national policy? Are any additional environmental policies needed?*

- 4.2 Given the importance of **Areas of Outstanding Natural Beauty (AONB)** as a national policy constraint with the highest status of protection in the English town and country planning system in relation to landscape and scenic beauty, what is the justification for allocating the proposed number of dwellings in the High Weald AONB? In relation to paragraph 172 of the Framework and the support in policy DP16 for appropriate 'small scale' proposals in the AONB, what should be the definition of 'major development' in the context of Mid Sussex?
- 4.3 Is policy **SA38**, in relation to **air quality**, justified and effective? Is it based on the latest air quality modelling data? For example, should the work on air quality impacts include the consideration of particulates? In particular, are the proposed mitigation measures sufficiently effective to, in all likelihood, prevent adverse effects from proposed development on the **Ashdown Forest SPA and SAC**?
- 4.4 Do any of the proposed site allocations threaten to harm the setting of the **South Downs National Park (SDNP)**, and if so, can effective mitigation be achieved?
- 4.5 The provision of a **Suitable Alternative Natural Greenspace (SANG)** is set out in District Plan policy DP17, to reduce the likelihood of visitor pressure on Ashdown Forest. Is it the role of this Plan to specify on a map the geographical extent of the 33 ha SANG at East Court and Ashplats Wood in East Grinstead? Is there a target date for implementation, and are there convenient public access arrangements?

Matter 5 - Are the policies to manage and promote the Local Economy and Employment Areas and Allocations sound?

- 5.1 **Policy SA9** allocates land for a **new science and technology park**; it is located to the north of the A2300, whereas the District Plan policy DP9 is for a high-quality business park to the south of the A2300.
- (i) Is there a **compelling economic case** for the implementation of this scheme?
- (ii) Is the **changed location of the proposed science and technology park**, from the south of the A2300 in policy DP9 to the north of the A2300 in policy SA9, justified? Does the Council consider that policy SA9 is consistent with policy DP9, or does it consider that policy SA9 supersedes policy DP9?
- (iii) Is the recent economic downturn in the **Crawley/Gatwick** area a strong argument for proceeding more cautiously, with a significantly smaller scheme, say closer to the proposed size in policy DP9?

(iv) Are the impacts of an enlarged science and technology park on the **physical infrastructure**, e.g. drainage, flood relief (bearing in mind its location in a flood plain) and the gas network, justified?

(v) Is the impact of an enlarged science and technology park on **the highways network**, justified in terms of traffic congestion and vehicular and pedestrian safety; does the highways network need to be improved to achieve a satisfactory level of mitigation, and if so, is a highway/transport improvement scheme deliverable at the same time as the implementation of the proposal?

(vi) Can the policy go beyond being aspirational and effectively deliver in **sustainable transport** terms, or is a heavy car dependency inevitable?

(vii) Are there any significant **environmental impacts**, resulting from this scheme and how can these be satisfactorily mitigated?

(viii) Would the implementation of policy SA9 result in an **excessive amount of employment development in one location** and if so, would this be sustainable?

(ix) Are there any implications from the **new Use Class E** (Commercial, business and service), which could influence the effectiveness or even justification of policies SA2-SA9?

(x) Is the **impact of Covid-19 on the local economy** significant, and if so, is there a case for changing any or all of policies SA2-SA9?

- 5.2 Are **policies SA1-SA8**, for additional employment allocations, justified and deliverable, and are they sufficient to meet the needs of the District during the plan period? Regarding policy **SA3**, given that planning permission exists for B uses, should the policy be amended to reflect this? Regarding policy **SA4**, is the proposed comprehensive landscaping scheme sufficient in its size, design and location to retain the strategic gap between Crawley and Copthorne? What is the response to suggestions that the entire area should be retained as open space with significant tree planting? Should policy **SA5** require a landscaping scheme to minimise the impact on views from the SDNP? Could the B8 element be met through the existing Hub site? Would this allocation contribute to the overdevelopment of employment land when considered in relation to the nearby Northern Arc? Should policy **SA6** require a site-specific lighting plan to reduce light pollution? Is development necessary given the proximity of The Hub site? Can the impact of policy **SA7** on the setting of the AONB be satisfactorily mitigated? Should policy **SA8** recommend a minimum barrier of 50m on the eastern border between the development and ancient woodland?

- 5.3 **Appendix A** comprises a list of **existing employment sites**, which are protected by policy **SA34**. How effective is the Plan in protecting existing and allocated employment sites from other uses, e.g. housing? Should the Plan set out the parameters of an 'independent assessment' in relation to the attractiveness of the market, and the likelihood of future employment uses on these sites, and over what period of time?
- 5.4 Is the Plan likely to maintain, enhance or detract from a sustainable **housing/employment balance** in the District, or is it more appropriate to consider Mid Sussex in relation to its near neighbours, such as Brighton and Crawley? Is there a balance between housing provision and maintaining an adequate supply of employment land?
- 5.5 Is there scope to consider **mixed use areas** where there is evidence of underuse/closure of industrial/commercial uses?
- 5.6 Policy DP2 in the District Plan sets a framework for promoting the key **town centres** as retail and commercial centres. Does this policy need to be updated, e.g. in relation to its parameters for primary and secondary frontages, in the light of the Covid pandemic, changes to the Use Classes Order or other commercial trends? Should the Plan aim for a town centres first approach for office development?
- 5.7 Are there any **other commercial, retail or employment policies** which are needed in this Plan or are the more strategic policies in the District Plan sufficient to provide the appropriate guidance for Mid Sussex for the remainder of the plan period?

Matter 6 – Are the Transport, Infrastructure, Implementation and Monitoring provisions of the Plan sound?

- 6.1 Are there any necessary infrastructure needs that are not addressed in the Plan?
- 6.2 Are there any **sewerage, flood risk or water supply issues** that could be described as significant constraints, and if so, can these realistically be overcome within the plan period, or would they impact on the effectiveness of the housing trajectory, or can they be described as 'show stoppers'? Should the Plan include a water efficiency policy, as recommended by Natural England? Should the Plan include a water supply/wastewater infrastructure policy, as recommended by Thames Water?
- 6.3 Are there any issues arising from the development allocations of the Plan on the **strategic highways network** or on any locations with potential highways/ pedestrian safety issues? Can these issues be satisfactorily

overcome? Several representations state that the Council's independently commissioned highways and transport studies, which generally support the site allocations in the Plan, are flawed; in what ways are these studies flawed? Is it acceptable/good practice for the highways impact of a scheme to be considered less than severe if the existing traffic conditions in the area, which admittedly not the result of the proposed allocation, are acknowledged to be severe; in other words, should the **cumulative impact** be the determining factor in assessing traffic impact in relation to the impact of a specific housing allocation? Reference is made to a recent study by WSP in relation to traffic conditions in the East Grinstead area; what were the principal conclusions of this study?

- 6.4 Is policy **SA35**, which addresses **the safeguarding of land for and delivery of strategic highway improvements**, sufficiently justified, detailed and effective to enable the delivery of the following schemes: (i) A22 Corridor upgrades at Felbridge, Imberhorne Lane and Lingfield Junctions; (ii) A264 Corridor upgrades at Copthorne Hotel Junction; (iii) A23 junction upgrades at Hickstead? Does the policy need to be extended to address potential highways issues in and around the proposed science and technology park to the north-west of Burgess Hill; the traffic impact of allocations SA12 and SA 13 to the south-east of Burgess Hill; and/or any other locations?
- 6.5 Does the identification of **detailed schemes for highways improvements** provide the necessary certainty to enable key housing and employment allocations to be delivered, or is the opposite true, i.e. that securing detailed schemes at a relatively early stage in scheme delivery would be inflexible, and therefore counterproductive to effective scheme delivery? Is part of the solution in addressing the effectiveness of the Plan to set out a series of phased triggers or thresholds which would link the implementation of housing numbers to the delivery of key highways and sustainable transport improvements?
- 6.6 Is policy **SA37** for the **Burgess Hill/Haywards Heath Multifunctional Network** both in principle and in relation to the preference of routes proposed for pedestrian and cycle routes, justified and effective? Although the policy is indicative, in view of the concerns expressed in some representations and the need for a measure of certainty, should the policy be linked to a realistic time frame for selection of preferred route(s) and final implementation of a preferred route(s)? What are the biodiversity impacts of pursuing the various options?
- 6.7 Does the Plan adequately protect against the **loss of playing fields** and/or other community facilities?

Matter 7 - Development Management, Uncertainties and Risks

- 7.1 **Development Management:** *Does the Plan provide sufficient guidance to cover all the relevant aspects of development management which are required to achieve the satisfactory implementation of the Plan?*
- 7.2 **Uncertainties and Risks:** *Overall, does the Plan take sufficient account of uncertainties and risks? How flexible is it?*
- 7.3 **Monitoring:** *Are the monitoring arrangements soundly based? Should biodiversity net gain be monitored?*

Matter 8 – Are there any other issues of soundness which this Examination should cover?

- 8.1 *Do any additional soundness issues, relevant to this Plan, arise from the NPPF?*
- 8.2 *Are there any other soundness issues which this Examination should cover?*

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24 March 2021