

## STEPHEN SURGEONER'S SUBMISSION TO THE INSPECTOR IN RESPECT OF THE MID SUSSEX LOCAL PLAN 2014 – 2031

I have read the Guidance Note from the Inspector, the MIQ Discussion Document and MSDC 01 Response to Inspector's Initial Questions (ID-01) in so far as they relate to Ref 2, High Weald Area of Outstanding Natural Beauty ("AONB"). I note that written representations should only address the MIQs set out in the Inspector's Discussion Document. I have addressed the MIQs which relate to SA25 in my written representations below and have sought to demonstrate, as requested:

- (a) What particular part of the document is unsound?
- (b) Which soundness test(s) does it fail?
- (c) Why does it fail?
- (d) How could the document be made sound?
- (e) What is the precise change that is sought?

### 1. Executive Summary

- (a) The inclusion of SA25 in the Site Allocations Plan Document ("the Plan") is contentious as it falls entirely within an AONB area and borders a conservation area. There are 47 Listed buildings in the Ardingly parish, mainly located within the Conservation Area.
- (b) Mid Sussex District Council ("MSDC") reduced both the area to be built upon (though not the site size) and the number of proposed dwellings in SA25 from 100 to 70 in March 2020 after the AONB High Weald unit objected to 100 dwellings and the size of the proposed site stating that it would, in its view, constitute 'major development'. MSDC have therefore tried to avoid any argument that this is 'major' development, conceding that if is determined to be major then no exceptional circumstances or public interest arguments exist to justify it. However, when one looks at the proposal objectively it clearly is 'major' within the ordinary meaning of that word.
- (c) Charterhouse, the Promoters of the site, have indicated that, notwithstanding the reduction in the number of dwellings and area to be built upon in SA25 which has gone forward into the Plan, they are nevertheless hoping to seek planning permission for 100 dwellings on a much larger area of the site<sup>1</sup>, in clear contravention of the assurances they apparently gave to the AONB High Weald Unit in March 2020<sup>2</sup>.
- (d) We contend that the Plan is neither legally compliant nor sound. These points will be expanded upon below, but in short the proposed housing vastly exceeds what is needed locally in Ardingly. The scale of development proposed is major

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<sup>1</sup> Pages 8 & 9, Appendix 1

<sup>2</sup> Para 4.8, page 18, 'Major Development in the High Weald AONB Topic Paper' Version for the Scrutiny Committee 11 March 2020.

development. SA25 cannot contribute towards achieving sustainable development as per the objectives in MDSC's Sustainability Appraisal Report. Indeed, MDSC's own sustainability assessment evidence refers to '**moderate potential**' that a 70 dwelling development will have **a significant adverse impact on the AONB** and the High Weald AONB concludes that, even with a reduced area being built upon, the **potential for a significant adverse impact on AONB purposes is moderate**<sup>3</sup>. There is no health provision, few community services, abysmal public transport<sup>4</sup> and very little local employment in Ardingly.

- (e) Building on this AONB land would lead to the suburbanisation of this rural village which will wholly detract from its situation in an AONB area. The proposal to build 70 dwellings would increase the size of the village by 18% and lead to an increase of 15% in the number of dwellings. It is axiomatic that this would constitute major development for a small, category 3 village.
- (f) The question of whether the proposed development is 'major' within the ordinary meaning of the word is a matter for the Inspector and is likely to be a key consideration. The Inspector will be well versed and advised on statute and recent case law on the meaning of major development. We will not repeat this verbatim, but some recent decisions stand out and we shall set them out below. It is our contention that they support our belief that SA25 is not legally compliant and is unsound.

## 2. Legal Requirements and Soundness

- (a) Legal Requirements of the Plan
  - (i) The Plan provides for a minimum requirement of 16,390 homes between 2014-31. Both the NPPF and DP16 require that the High Weald should be **positively conserved and enhanced** by any permitted development.
  - (ii) Another stated aim is to keep within its remit in relation to the 'made' and emerging Neighbourhood Plans. In relation to SA25 the Ardingly Neighbourhood Plan ("**ANP**") has been completely ignored, despite the fact that there is no strategic policy in the District Plan to deliver 70 homes in Ardingly. Thus, the ANP should take precedence<sup>5</sup>.
  - (iii) The District Plan Inspector noted (para 53) that *"Some settlements lie within the AONB and may be appropriate for modest housing schemes, but there is no evidence that meeting the housing requirement will necessitate major development in the AONB"*.

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<sup>3</sup> P.49 , 'Major Development in the High Weald AONB Topic Paper' Version for the Scrutiny Committee 11 March 2020.

<sup>4</sup> This was one of the bases upon which Bucher's Field planning proposal in Ardingly was rejected. Appeal Ref: APP/D3830/A/12/2172335

<sup>5</sup> NPPF para 30

- (iv) SA25 does not meet objective S2 of the High Weald AONB Management Plan, namely protecting the historic pattern and character of settlement ... and prioritizing the delivery of new housing primarily *through small scale development ... that responds to local needs*.
- (v) It is incorrect to say that there are no objections to the principle of the development on the sites allocated from Natural England or the High Weald AONB. The 'major development' rating ascribed to SA25 originally was only downgraded once the site had been reduced in terms of both the area to be built upon and the number of dwellings, allegedly with the agreement of Charterhouse. The evidence at both regulation 18 and 19 stages states that: "***it is considered that the potential for a significant adverse impact on AONB purposes is moderate***". Moreover, CPRE Sussex are maintaining their objection to this proposed allocation.
- (vi) Both the NPPF and DP16 require that the High Weald should be ***positively conserved and enhanced*** by any permitted development, and the NPPF requires "*great weight*" to be given to any adverse impact of any AONB development proposal on its conservation and enhancement. If harm could be caused, the public policy purpose of AONB conservation policy and affording it the highest status of protection imposes a strong presumption that an allocation or planning application should be rejected.

### 3. Sustainability Appraisal ("SA")

- (a) SA25 is unsustainable for such a large allocation. Before one even moves on to consider the protections afforded to AONB land by S.172 NPPF, the site therefore fails.
- (b) The location is not sustainable. There is no health provision, no pharmacy, no Post Office<sup>6</sup>, and public transport is lamentable with roughly one bus every two hours. There are very limited community services and very little local employment. The nearest health facilities, Post Office and shops are a minimum of 3.5 miles away along busy, narrow and dangerous roads with no pavements.
- (c) Alternative, sustainable sites outside the AONB should be sought. The proposal is not proportionate to settlement size, far exceeds local settlement needs and cannot be supported by the existing infrastructure.

### 4. Does the Plan deliver the Quantitative and Qualitative Aspects of Housing Provision in the District Plan to meet Mid Sussex's Requirements?

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<sup>6</sup> Ardingly Post Office closed in 2020.

- (a) The ANP set out a local need for 37 houses up to 2031, and directed that all future development should be within the built up area of the village.<sup>7</sup> MSDC objectively assessed the need from Ardingly for 73 new dwellings in the plan period. As of February 2020 the residual requirement was just 16 dwellings to be delivered over a further 11 year period.
- (b) The proposed site would impact the quality of the landscape and the surrounding area. Light pollution, traffic noise, ancient tree lines and the historic split of the village would be compromised.
- (c) There are also deliverability concerns. As Selsfield Road narrows to Ardingly High Street it is single lane only. There are numerous accidents. There is already insufficient parking for local residents in the village and the loss of a large parking area outside the SA25 site which is heavily used by people coming to walk their dogs and let their children cycle on the showground would inevitably lead to yet more cars being abandoned on the side of the main road and in the village. Cycling is inherently dangerous due to the nature of the busy, narrow roads and will be even less safe with more traffic and parked cars.

**5. Are the Transport, Infrastructure, Implementation and Monitoring provisions of the Plan sound?**

- (a) Public transport in Ardingly is woeful. The roads are heavily congested and an additional 140 cars would only exacerbate this. Private transport is required for shopping, medical needs, secondary school and leisure facilities. These issues cannot be overcome.
- (b) The Plan does not adequately protect against the loss of playing fields/open space with SA25 forming part of it. The site is heavily used by dog walkers and families with children crossing it to walk to school and/or to access the playground or recreation ground where there is very limited parking.

**6. Case Law**

- (a) There are a number of appeal decisions under NPPF (2018), some of which specifically reference footnote 55. First, ***APP/D0840/W/18/3208554 and APP/D0840/W/18/3213658, Land South of Tregellast Parc, St Keverne (7 March 2019)***, PP sought in an AONB for (1) a sustainable residential development of 10 dwellings and associated vehicular access; and (2) affordable housing led development of up to 10 dwellings, site access and associated landscaping. The Inspector dismissed the appeal having concluded that the proposal constituted major development in the AONB: – “19. *Paragraph 172 of the revised Framework also advises that planning permission should be refused for major development other than in exceptional circumstances. Housing schemes of 10 or more dwellings are generally classified within the Glossary of the revised Framework as major development, and with*

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<sup>7</sup> Policy ARD 2: A Spatial Plan for the Parish The Neighbourhood Plan directs future housing, economic and community-related development within the parish to within the revised built -up area.

*regard to footnote 55 I see no reason why the proposed schemes should be considered otherwise in this case.”*

- (b) Secondly, **APP/X2220/W/18/3194604, Ringwould Alpine Nursery, Dover Road, Ringwould, Kent CT14 8HG (decision date 13 December 2018)**, PP sought in an AONB for erection of a water bottling plant including storage and offices (totalling 1,800sqm of floorspace), new vehicular access, parking and turning areas, landscaping and biodiversity enhancements. The Inspector refused the appeal on the basis that the proposal would have *“an unacceptable effect in relation to the AONB...regardless of whether the proposal is considered to be “major” or not”*. – *“21. ... In this individual case, I consider that the proposal has an unacceptable effect in relation to the AONB and its effects on neighbours and this is regardless of whether the proposal is considered to be “major” or not. However, and for the purposes of clarity, taking account of the scale, character and nature of the proposal and the surrounding in which it would be constructed, as well as the effects that I have determined that it would have, I consider that it represents “major development” for the purposes of paragraph 172 of the NPPF.”*
- (c) Thirdly, **Planning Appeal APP/D3830/W/20/3261311** which was handed down on 10 May 2021 involved a 32 home site in Horsted Keynes. The Inspector dismissed the Appeal, largely on the ground of significant adverse impact on the High Weald AONB despite concluding that the application did not involve major development. This finding was at odds with MSDC’s position, that this 32 home scheme did indeed constitute ‘major development’.
- (d) When reviewing appeal decisions/call-ins on “major developments” in designated areas since NPPF (2012) one can see a pattern. Generally applications for 30 houses or less have not been seen as major development, with applications for more housing than this seen as “major”. There are of course exceptions to this rule of thumb, as assessment of whether something is “major development” is, of course, not just based on the number of houses proposed but must also involve looking at the particular characteristics of the site in issue and its impact in the local area.

## **7. Ardingly Residents**

- (a) Whilst the Inspector will no doubt be addressed by Leading Counsel on behalf of MSDC and developers, it may be helpful to add some local colour and knowledge. SA25 is heavily used both by local residents and by members of the public from further afield for recreational and leisure purposes. They walk their dogs and play with their children on the green space which is safely away from cars. The site is regularly used for parking for car boot sales and other showground events. SA25 is the highest point in the area and completely exposed, so the housing would be visible from all routes in and out of the village.

- (b) To put this proposal in context, the population of Ardingly (category 3 village) was estimated in 2010 as c.1,910<sup>8</sup>. The development of Standgrove Field in 2015 provided 37 new dwellings in Ardingly and there has been further small scale development between 2015 to date. The population of Haywards Heath (Grade 1 settlement and nearest town) was estimated in the 2011 census at c.33,845, approximately 18 times larger. If the proposal was to build 1,260 new dwellings in Haywards Heath in one go (same ratio as Ardingly) would that be viewed as major development? We understand that Haywards Heath are in fact taking 25 new dwellings, despite not being in an AONB area.
- (c) Numerous objections have been made to SA25 by local residents, but their objections have been ignored. Ardingly residents should, however, have a voice as it is they who will have to live with a large increase in the size of their village, additional traffic and the loss of a greatly loved green space of community benefit.
- (d) When surveyed in 2020 about SA25 by APC 89% of respondents did not agree that the reduction in dwellings and area to be built on from 100 to 70 was sufficient. 86% of respondents said there should be less than 40 houses, and 46% of respondents said the land should not be built upon at all.
- (e) Charterhouse distributed a community newsletter to local residents in April 2021 purportedly seeking their feedback on their proposal to build either 70 or 100 dwellings on the site. They stated that if permission were only granted for 70 dwellings on a reduced build area then the village would get nothing in return<sup>9</sup>. This document reflects poorly on Charterhouse and should never have been distributed.
- (f) Ardingly residents have a legitimate expectation that MSDC will enforce the provisions of the Legal Agreement dated 15 November 1998<sup>10</sup> between the South of England Agricultural Society (“SEAS”) and MSDC which regulates the use of the Showground. The Agreement does not permit the development of the land for residential housing and provides in relevant part that if SEAS does not use the land to hold its shows, the land should be reinstated to its former agricultural use. This Agreement emphasises the rural and agricultural nature of the land, which again pertains to the deliverability of SA25.

## 8. Conclusion

- (a) MSDC are seeking to ride rough-shod over the law and local residents to force through development which is neither needed nor wanted. It would constitute major development by increasing the size of this small category 3 village by 18% in one go. No other proposed site either wholly or partially in the AONB is facing the threat of such major development, and rightly so. MSDCs insistence that the Plan only provides for 188 dwellings in the High Weald AONB is irrelevant in

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<sup>8</sup> Ardingly Neighbourhood Plan. P.5

<sup>9</sup> Page 8, Appendix 1 and recorded Project Webinar on 12 April 2021

<sup>10</sup> Appendix 1, pages 1-6

terms of SA25, where it is proposed that 70 out of the 188 AONB dwellings (37%) will be built on just one site.

- (b) Both the District Plan (policy DP16) and para 172 of the NPPF require that ***development should conserve and enhance the AONB***, not just minimize impact on it. SA25 could not possibly fulfil this remit.
- (c) Charterhouse have already shown their intentions by informing local residents that they can either accept 70 dwellings (and get nothing in return), or accept 100 and then get a relocated scout hut and some parking for the local primary school<sup>11</sup>. The approach of both Charterhouse and MSDC is that development on SA25 appears to be a “done deal”.
- (d) Whilst MSDC have been at pains to point out in their Response to Inspector’s Initial Questions (ID-01) that the Plan has been positively prepared as they have considered, inter alia, the Maurici Opinions and engaged with Natural England and the High Weald AONB this does not mean that their conclusions as to what constitutes major development are correct. That is a matter for the Inspector to consider and conclude, not MSDC who of course have enormous self interest in this determination.
- (e) This AONB land has the highest status of legal protection and should only be built upon as a last resort if required to meet local need. It is not. It is of enormous benefit to the local community and to people from all over Sussex. It should be preserved for future generations. Development sites could and should be sought outside the High Weald AONB.
- (f) SA25 is neither legally compliant, sustainable, deliverable nor sound. It is not positively prepared. It is not justified. It is not effective and it is inconsistent with national policy. In order for the Plan to be made sound SA25 must be removed from it.

Stephen Surgeoner

14 May 2021

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<sup>11</sup> Appendix 1, Charterhouse Community Newsletter, Appendix 1, pages 7 & 8