

Mid Sussex Site Allocations Plan

Matter 3 Examination Statement

- 1.1 This examination statement has been prepared by Nexus Planning on behalf of Miller Homes Ltd.
- 1.2 Miller Homes control land south of Lewes Road, Haywards Heath ("the Site") (SHELAA ref. 844). The Site measures approximately 5 hectares, is available for development now and has an indicative capacity of 100 dwellings.

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?

- 1.3 No.
- 1.4 As set out in the response to the questions below, the minimum residual requirement has been calculated on the basis of a significant reliance upon the delivery of strategic sites and unrealistic assumptions relating to delivery, namely in respect of the Northern Arc.
- 1.5 Without this change, the Plan would fail to be positively prepared or justified and accordingly unsound, in line with paragraph 35 of the NPPF.

(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?

- 1.6 No - there is an insufficient buffer to enable the Plan to ensure there is enough flexibility of housing land over the plan period.
- 1.7 Paragraph 11a of the NPPF is clear that *"plans should...be sufficiently flexible to adapt to rapid change"* and it is common practice for local plans to include a 'non-implementation buffer' to improve the robustness of a plan and ensure that the housing requirement is delivered over the plan period.
- 1.8 It is accepted that the buffer currently proposed in the SA DPD is sufficient when measured against the minimum residual housing requirement (1,280 dwellings), but this is the wrong test. The Site Allocations DPD has been prepared to ensure the delivery of the District Plan requirement and therefore a scale of the buffer must be assessed against the entire housing requirement yet to be delivered to ensure that a minimum of 16,390 dwellings are delivered over the plan period, as required by Policy DP4 of the District Plan.
- 1.9 At present, the SA DPD would only provide a buffer of 484 dwellings or 4.2% against the remaining District Plan requirement after completions (shown as 11,473 dwellings in the Council's housing Land Supply Note – H2), which clearly fails to deliver a robust plan that is sufficiently flexible to adapt to rapid change, noting that the Plan is already having to address a shortfall of more than 700 dwellings from the Strategic Allocation at Burgess Hill.
- 1.10 Furthermore, the Plan places a significant reliance upon strategic sites for housing delivery over the remainder of the plan period, with Council Document ID-01 suggesting that 4,178 dwellings will be delivered by the strategic sites over the remainder of the plan period, equating to 36.4% of total supply (an increase on the already significant reliance within the District Plan at the time of adoption).
- 1.11 In order to address this fragility of the Plan through its over reliance on a few sites to deliver over a third of the housing requirement, it should allocate additional housing sites at sustainable locations, in accordance with Policy DP4 and DP6 of the District Plan.

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?

- 1.12 Paragraph 73 of the NPPF sets out requirements in terms of provided specific deliverable sites sufficient to provide a minimum of five years' worth of housing against the housing requirement set out in adopted strategic policies, ranging from 5%-20%, based upon specific criteria. In this

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instance, national policy would require the Plan to provide a 5% buffer to ensure choice and competition in the market for land. However, this buffer only relates to the 5 year requirement and is of course provided against 'deliverable' sites.

- 1.13 When considering buffers over a local plan period, this must account for the fact it includes sites being defined as 'developable', which of course only have a "reasonable prospect" of being developed compared to deliverable sites having a "realistic prospect" of being delivered (see Annex 2 of the NPPF). Given this added uncertainty, which is unavoidable when looking over time periods longer than 5 years, it is right that plans should include a non-implementation buffer and that this is separate to buffers identified by paragraph 73 of the NPPF.

(iii) Should an allowance for non-implementation be built into the Plan? Some parties have suggested a figure of 10%.

- 1.14 Yes.
- 1.15 As set out above, we consider that an allowance for non-implementation should be built into the Plan.
- 1.16 We consider that the Plan should allocate additional sites sufficient to provide at least a 10% buffer against the remaining District Plan housing requirement, increasing the overall housing provision to 2,427 dwellings.
- 1.17 Without this change, the Plan would fail to be positively prepared or justified and accordingly unsound, in line with paragraph 35 of the NPPF.

(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?

- 1.18 The District Plan already places a significant reliance upon strategic sites for housing delivery and Council Document ID-01 suggests that 4,178 dwellings will be delivered by the strategic sites over the remainder of the plan period. This further increases the already high reliance (35.4%) to 36.4% of total remaining supply.
- 1.19 The well-publicised report by Lichfields titled 'Start to Finish: How Quality do Large-Scale Housing Sites Deliver?' found that large scale schemes suffer from significant lead in times and this has been reflected in the under delivery of the Northern Arc, for example, against original assumptions in the District Plan. However, the Lichfields report also outlines that the annual average build out rates for large sites (2,000 dwellings+) was circa 161 dwellings per annum. Even if an optimistic assumption of 200 dwellings per annum was made given the size of the Northern Arc,

the Plan still assumes substantially high rates of delivery at between 212 and 300 dpa for 9 of the remaining 10 years of the Plan period.

- 1.20 Given the above, the reliance on housing delivery from strategic sites is significant and previous evidence would suggest that the optimistic rates of delivery for the Northern Arc are too high.
- 1.21 Accordingly, the Plan would fail to be effective and is therefore unsound, in line with paragraph 35 of the Framework. To address this, additional sites should be allocated to compensate for a more realistic delivery rate from the Northern Arc (see our response to Question 3.4 for further details).

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;

- 1.22 Table 2.4 outlines the minimum residual housing figure for each settlement category with a minimum of 706 dwellings at Category 1 Settlements (Burgess Hill, East Grinstead and Hayward's Heath). This table links back to a similar table forming part of Policy DP4 of the District Plan and this sets the broad framework for the general distribution of housing within the Site Allocations DPD.
- 1.23 In this regard, paragraph 6.11 of the SA outlines that Policy DP6 of the District Plan sets out an indicative level of development for each settlement. It then goes on to state that "*The methodology for attributing the residual housing requirement to category/settlements was found sound through the District Plan process and it is not intended to revise it at this stage.*" The SA does however acknowledge that the indicative figures were only calculated at a high level i.e. not having regard to specific sites and therefore "*whilst it is fully intended to allocate sufficient sites in order to meet the category/settlement residual requirements set out in DP4/DP6 as far as possible; there may be reasons why this cannot be achieved*" (paragraph 6.14).
- 1.24 Notwithstanding the above, it is important to note that the principal purpose of providing residual housing figures by settlement was to guide the preparation of neighbourhood plans. This conclusion is supported by the District Plan Inspector who at paragraph 33 of his report states that Policy DP6 "*includes a table setting out the spatial distribution of the housing requirement with minimum housing requirements for the settlements and an assessment of the minimum residual requirement, to provide a suitable context for the preparation of neighbourhood plans*" (emphasis added). National policy has now been amended to specifically require this within strategic policies

(paragraphs 65 and 66 of the NPPF) and this approach is entirely logical when neighbourhood plans are prepared for a single parish. However, the use of detailed settlement figures are not appropriate in the context of preparing a District-wide site allocations documents, as the settlement specific figures simply serve to unduly restrict the growth strategy despite, as the Council freely admit, not being robustly tested such that the figures are actually known to be deliverable.

- 1.25 When considering further allocations at a District-wide level, fresh consideration must then be given to the fact that the District is subject to a number of constraints, including AONB and the setting of the SNDP. Paragraph 172 of the NPPF states that *"great weight"* should be given to conserving and enhancing their landscape and scenic beauty. It also outlines that the scale and extent of development in these areas should be *"limited"* and that major development in the AONB should be refused other than in *"exceptional circumstances, and where it can be demonstrated that the development is in the public interest"*. There is also the Ashdown Forest 7km Zone of Influence and implicit in the Habitats Directive is the application of the 'precautionary principle', which requires that conservation objectives prevail where there is uncertainty. When considering sites subject to these constraints, this must be balanced against the availability of sites outside of such designations and in highly sustainable locations such as Haywards Heath.
- 1.26 This has not however happened and the adverse effects of the Council's approach are evidenced in paragraph 6.16 of the SA where it states that *"...in order to meet the District Plan strategy, conclusions will be compared on a settlement-by-settlement basis with the most suitable sites at each settlement chosen in order to meet the residual needs of that settlement. This may result in some sites being chosen for allocation which have higher negative impact across all the objectives because this will be on the basis that the aim is to distribute allocations according to the District Plan strategy in the first instance; as opposed to simply selecting only the most sustainable sites in the district (as this may not accord with the spatial strategy and would lead to an unequal distribution of sites across settlements)."*
- 1.27 We agree that the SA DPD should not simply allocate all sites in Category 1 settlements as they should broadly align with the spatial strategy set out in the District Plan, but only where it is sustainable to do so. Where sufficient sites cannot be identified within a settlement category, any shortfall should then first be tested in Category 1 settlements. We consider that this approach would promote a sustainable pattern of growth, something the Plan currently fails to do

(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?

- 1.28 Yes.
- 1.29 Policy DP4 sets out a minimum District Plan housing requirement and a minimum requirement for settlement category. The wording here is therefore very clear that there is nothing to prevent additional allocations where this figure has been exceeded, providing it represents a sustainable pattern of growth.

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- 1.30 Turning to addressing local needs, Table 2.5 within Policy SA11 of the Plan outlines that 1,409 dwellings are proposed to be allocated within Category 1 Settlements, albeit only 25 dwellings are to be allocated at Haywards Heath. Within the District Plan it is clear that Burgess Hill has by far the most housing allocations, including the Northern Arc and therefore at a strategic level it is difficult to understand the justification to allocate almost a further 612 dwellings on the edge of this settlement. As a starting point, logic would suggest an even split of housing across each of the Category 1 Settlements, which is indeed broadly reflected through demographic analysis as outlined below set out in our Regulation 19 representations to Policy SA11.
- 1.31 Policy DP4 of the District Plan does not provide any strategic direction over how the minimum Category 1 settlement requirement should be apportioned. However, Policy DP6 sets out the settlement hierarchy and amongst other things confirms that a strategic policy objective is *“to provide the amount and type of housing that meets the needs of all sectors of the community”* and outlines that growth of settlements should meet identified local housing, employment and community needs.
- 1.32 As detailed in our Regulation 19 representations to Policy SA11, proposed Category 1 settlement housing allocations within the Plan results in a level of planned housing growth at Haywards Heath over the period up to 2031 falling significantly short of that likely to be required to meet the settlements demographic needs and to maintain its status within the settlement hierarchy.
- 1.33 In view of the above, a greater proportion of the residual District Plan housing requirement should be focused at Haywards Heath and therefore additional sites must be allocated within the Plan. This can be delivered whilst maintaining the focus for growth at Burgess Hill and achieving growth at Haywards Heath (and to some extent East Grinstead) which aligns with the respective settlements position within the settlement hierarchy and ensures that the demographic housing needs of the settlements is met over the Plan period.
- 1.34 Without this change, the Plan would not be justified.

(iii) Strictly controlling development in the open countryside;

- 1.35 The District Plan process already established that it was necessary to release greenfield sites to meet identified development needs.
- 1.36 Whilst a very limited number of sites within the built up area or on previously developed land might have been made available since with District Plan was adopted, it is inconceivable that sufficient suitable, available and achievable sites would suddenly emerge to accommodate all residual housing needs, as reflected in the Council’s site selection process and SHELAA 2020 (SSP5).
- 1.37 Given the above, allocating additional sites in the countryside is a sound approach.

(iv) Maximising the re-use of previously developed sites which are sustainably located; and

- 1.38 See response to question ‘iii’ above.

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:

(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;

(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 SA25 Land West of Selsfield Road, Ardingly [70 dwellings].

- 1.39 The NPPF does not define what constitutes major development in the AONB. Indeed, footnote 55 states that this *"is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined"*.
- 1.40 Having regard to footnote 55 of the NPPF, SA25 would result in some 3.5ha of greenfield land being developed to accommodate 70 dwellings (reduced from 100 dwellings in the previous iteration of the plan due to the Council accepting that it did comprise major development in the AONB).
- 1.41 70 dwellings does however remain a significant scale of development, particularly on the edge of a modest rural village and resulting in a fundamental and irreversible change to the landscape and scenic beauty of the site and wider area as the development would be readily perceptible from outside the site. It would also represent a significant expansion of the existing village in a sensitive location adjacent to a conservation area. For these reasons, it would represent major development in the AONB for the purposes of 172 of the Framework.
- 1.42 As set out in our Regulation 19 representations to Policy SA25 of the Plan, the District Plan Inspector stated that there is *"no evidence that meeting the housing requirement will necessitate major development in the AONB"* (paragraph 53).
- 1.43 Our Regulation 19 representations demonstrates that there are no exceptional circumstances for SA25 and the Council rightly accept that exceptional circumstances do not exist in its own assessment.
- 1.44 Given the above, SA25 should be deleted or substantially reduced in scale (irrespective of whether it is concluded 70 dwellings comprises major development in the AONB), due to the failure for *"great weight"* to be *"given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of*

protection in relation to these issues.” (paragraph 172 of the NPPF) in the context of suitable available alternatives outside the AONB in more sustainable locations.

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?

- 1.45 This is difficult to comment on given the lack of information relating to the trajectory for sites included within the Plan. Furthermore, we note the existence of the Council’s Housing Land Supply Position dated December 2020 but this is now based upon an outdated housing requirement as it has a base date of 2020/21 and does not therefore fully reflect the latest stepped housing requirement in the District Plan.
- 1.46 Notwithstanding this, we outlined earlier in this Matter Statement concerns regarding the delivery assumptions for the Northern Arc. Even if an optimistic assumption of 200 dwellings per annum was made given the size of the Northern Arc, the Plan still assumes substantially higher rates of delivery over the five year period as follows (taken from ID-01):
- 2021/22 – 212 dwellings
- 2022/23 – 264 dwellings
- 2023/24 – 275 dwellings
- 2024/25 – 266 dwellings
- 2025/26 – 283 dwellings
- 1.47 This amounts to total supply over 1,300 dwellings over the five year period of an average rate of 260dpa. If this was reduced to even an optimistic assumption of 200dpa, 300 dwellings would fall out of supply over the five year period for this site alone.
- 1.48 Given the Council’s published housing land supply position was only 5.37 years, the combined increase in the District Plan requirement for the period 2021/22 – 2025/26 and reduction in supply from the Northern Arc alone would likely result in a failure to identify the required 5 year supply of deliverable sites.
- 1.49 Given the above, additional deliverable sites should be allocated to address this shortfall as otherwise the plan will be unsound.

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?

- 1.50 Yes.
- 1.51 For the reasons set out in response to Issue 3.4, we would agree that the Plan should identify an increased number of specific, deliverable sites to ensure a robust five year supply is demonstrated.

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Based upon our calculations for the Northern Arc, this would require at least an additional 300 dwellings.

3.7 Has an allowance been made for non-delivery of planning permissions for new dwellings, and if so, what is it?

- 1.52 As set out earlier in this Matter Statement, the Plan only currently includes a buffer of 484 dwellings or 4.2% against the remaining District Plan requirement, which it is assumed would in part address non-implementation.
- 1.53 However, such a small allowance against the District requirement is insufficient to deliver a robust plan that is sufficiently flexible to adapt to rapid change, noting its significant reliance upon strategic sites. To address this, a buffer of 10% should be provided.