

Mid Sussex Site Allocations DPD Examination (Matter 3)

Our ref 62525/01/MS/HBE
Date 13th May 2021
On behalf of Whitehall Homes LLP

Issue 3.1 New Homes Quantum (policies SA10 and SA11)

This statement is prepared on behalf of Whitehall Homes LLP ('Whitehall'). Whitehall are promoting the 'Swallows Yard' site in Albourne (a Category 3 'Medium Sized Village') for a sustainable development of c.38 to 45 homes. This site is not currently proposed as an allocation in the submitted 'Site Allocations DPD'. Representations were previously made to the Regulation 19 consultation in September 2020 (Respondent ID: 1842). On the 28th April, a request was made to the PO for Whitehall to attend the hearing session on the 2nd June.

These representations have been prepared in accordance with the 'Inspector's Examination Guidance Note' (ID-03). Separate statements have therefore been prepared for each issue.

(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?

- 1.1 The explanation for the reduction in the residual requirement (and therefore number of units/sites to be allocated) seems to be explained by past completions combined with forecast commitments being greater in the submitted plan (12,196 units) compared with the adopted District Plan (11,091 units). In addition, the windfall allowance has increased from 450 in the adopted local plan to 504 in the submitted plan.
- 1.2 The Council has set out its supply commitments as at 1st April 2020 (document ref. H5). This identifies a supply of 9,689 units and a small site windfall allowance (504 units). The Council's total supply is therefore 10,193 units against an overall net requirement of 11,473 units (taking account of completions since the start of the plan-period). Thus, the residual requirement on these figures is 1,280.
- 1.3 However, we have some concerns about the delivery assumptions of some of the commitments. Firstly, the Council is heavily reliant on the 'Northern Arc' site (DP9, SHLAA IDs 493 and 969) that makes up 28.8% of its overall committed supply for the plan-period. This site was originally anticipated at the time of the District Plan's adoption to deliver in full – 3,500 units – during the plan-period with delivery assumed to peak at rates of up to 388 dpa. However, the site has now been delayed and, as per the latest March 2021 update for the site¹, it is now expected to deliver only 2,787 units (a reduction of 713 units) at an average of 253 dpa in the plan-period.
- 1.4 Reviewing the Council's latest trajectory for the site (as per MSDC-01)², we do not consider it to be justified for the following reasons:

¹ MSDC-01, Page 20

² MSDC-01, Page 20

- 1 The updated delivery schedule appears to conflict with what the housing development actually has detailed permission for. The Council’s updated summary of the site’s planning history) notes that only the ‘Freeks Lane’ site has a detailed permission for housing (460 units). This site is under construction and is expected to deliver 80 units in 2021/22 (having been pushed back from 77 completions expected in 2020/21 as per the Council’s July 2019 Annual Position Statement).

However, the whole delivery trajectory (which includes delivery at ‘Freeks Lane’) expects 77 completions to have already occurred in 2020/21. It also anticipates 212 completions in the current monitoring year (2021/22) but there is no other housing aspect of the site that has a reserved matters permission that could deliver in addition to the 80 expected from ‘Freeks Lane’.

Also, reviewing the Council’s latest five-year supply position (published January 2021), only 894 units from the ‘Northern Arc’ site are expected to be delivered by 2024/25, while the Council’s latest update for this examination (MSDC-01) expects 1,094 units in the same period. Delivery of 77 units in 2020/21 therefore cannot have occurred, so the delivery of an additional 132 units in 2021/22 also appears unjustified.

Table 1 Comparison of the Northern Arc’s Expected Delivery

Source	Site	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Council’s 5YHLS (Jan 2021)	Freeks Lane (969)		80	130	114	121	445
	Phase 1, North Arc (493)			135	157	157	449
	Total Delivery		80	265	271	278	894
MSDC-01 (March 2021)	Whole Allocation (including Freeks Lane)	77	212	264	275	266	1094

Source: MSDC 5YHLS Position (January 2021), MSDC-01 (March 2021)

- 2 The role of Homes England is noted to bring forward development, but this site has already been significantly delayed. There is still no reserved matters submission for homes on the main aspect of the site with these not expected until the Autumn. Delivery from these phases is unlikely to occur until 2022/23 at the very earliest when allowing time for determination and then time to build out homes; and
- 3 The new delivery rates assumed are still high when compared to Lichfields national research ‘Start to Finish’ (2nd Edition) (February 2020)³. This research found that a site of this size will deliver at 160 dpa⁴ on average and while some sites were able to sustain higher average rates in excess of 200dpa, they tended to have specific circumstances which led to these higher than average rates and were largely in the minority (only four such examples in a sample of 35 sites of 2,000+ units). While the site’s circumstances suggest that the site could deliver at higher rates (for example, likely multiple developers / greenfield site / up front infrastructure) no delivery strategy is provided as evidence to the examination as to if and how such factors will lead to such higher rates. As such it is not clear the delivery assumptions for this site can be justified.

Even if the site delivered at a high average rate of 200 dpa from 2021/22 (i.e. when Freeks Lane is expected to record completions) only 2,000 units would be completed by the end of

³ <https://lichfields.uk/media/5779/start-to-finish-what-factors-affect-the-build-out-rates-of-large-scale-housing-sites.pdf>

⁴ Calculated over at least a 10-year period.

the plan-period; 787 units less than the Council currently anticipate and 1,500 units less than anticipated at the District Plan's adoption.

- 1.5 On the basis of the above, at least 209 units should be removed from the assumed delivery at the 'Northern Arc' from 2020/21 and 2021/22 which are assumed to be errors based on the above. Looking ahead, the rates also appear overly-optimistic and if there was a further delay – even by a year – this would be a significant⁵ impact on the Council's ability to meet its minimum requirement at a District level.
- 1.6 In addition, there are a number of Neighbourhood Plan allocations in the Council's commitments (ref. H5) which appear unlikely to deliver. For example:
- **G&W Motors London Road Bolney (10 units)** – the site appears to be in active use as an equestrian shop and a motorcycle workshop. There have been no planning applications in the past five-years for development. It is noted in the Neighbourhood Plan ('made' in 2016) that the site was originally allocated in the 2004 District Local Plan (Policy BO1) for six units but has not come forward since that time. Given the site has not come forward in 16 years and there is no evidence to suggest it is now, the site should not be part of the Council's trajectory.
 - **Land adjacent to Cookhams (16 units)** – the site appears to be a partly wooded area on the edge of Sharpthorne. It is allocated in the Neighbourhood Plan 'made' in 2014. There have been no applications made in the past five-years for the site's development. An application has been made on adjacent land for 8 units (ref. DM/20/4436). Given the site has not come forward in over seven years, the site should not be part of the Council's trajectory as it cannot be demonstrated to be achievable.
- 1.7 On the basis of the above, at least 235 units should be removed from the Council's commitments; the effect of which would be to increase the residual requirement to 1,151 units. Our analysis shows that the Council's position is extremely fragile and from our limited review have found 235 units – or 49% of the Council's stated oversupply (484 units) – to already be unlikely to come forward over the period of the plan.
- 1.8 As a separate point, while this does not affect the relevant figure for calculating the residual requirement, the basis of this question, in Document H5 the 'Overall Total (Gross)' column double counts the delivery from the 'Freaks Lane' (SHLAA ID: 969).

Word count: 1,217

⁵ On the basis of the MSDC-01 trajectory: 1-year delay = 300 unit loss compared to a stated oversupply of 484 units.

(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 ID-02 4 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?

- 1.9 No. As set out above we have serious concerns about the commitments figure used to calculate the updated residual figure, therefore only incorporating a 2.95% buffer on the housing requirement as assessed in the District Plan means the buffer is more than likely insufficient to even meet identified needs. Local Plans are required to be ‘flexible’ to adapt to rapid change (NPPF Para 11a) which can include situations such as where sites do not come forward as anticipated.
- 1.10 Based on the Council’s figures it has only identified an ‘oversupply’ of 484 units; equating to 2.95% above the minimum District requirement (16,390 units). Taking our amended residual requirement figure from our response to Issue 3.1(i), the oversupply would only be 249 units (i.e. a reduction of 235 units); equating to a 1.52% above the minimum District requirement. This level of ‘oversupply’ should be considered grossly insufficient to provide the necessary flexibility in order to adapt to rapid change. For example, if the ‘Northern Arc’ site (DP9) was delayed by a single year, this would mean the loss of 300 units of supply; therefore, there would not be sufficient supply to meet the minimum requirement of 16,390 units on our revised residual requirement.
- 1.11 By way of comparison with other Local Plans a 2.95% stated ‘oversupply’ for flexibility is significantly lower than these examples:
- **Stratford-upon-Avon – Core Strategy (2016):** As detailed in the Inspectors report, the Inspector increased a proposed 10% oversupply for flexibility to 20% to ensure the plan is ‘positively prepared’ (Para 71). It is also of note that this plan was also relying on delivery from two new settlement sites (Gaydon Lighthorne Heath and Long Marston Airfield);
 - **Redcar and Cleveland – Local Plan (2018):** The Inspector notes that the plan included a supply buffer (i.e. oversupply) of over 20% for flexibility and that due to sites coming forward since the start of the examination process the buffer was well in excess of 20% at the time of adoption (Paras 175 to 177); and
 - **South Oxfordshire – Local Plan (2021):** Adopted policy STRAT2 identifies a total housing requirement of 23,550 homes and Table 4c identifies a supply (including previous completions) of 30,056 units. This is an oversupply of 6,506 units or 27% against the minimum requirement.
- 1.12 Against the above comparisons, a 2.95% oversupply is insufficient to provide flexibility. The plan is therefore not effective at delivering housing to meet the identified housing requirement in the adopted District Plan.
- 1.13 The Council has also increased its small site windfall allowance to 504 units. Comparing this against the Council’s own oversupply figure (484 units), it has not actually identified enough supply from specific deliverable and developable sites to meet the minimum District Plan requirement. Therefore, the plan is not positively prepared nor is it effective in this regard.

- 1.14 Moreover, we know that the Council is preparing an early review of the District Plan (as required by Policy DP4). As per MSDC-01 the Council states that *“there will be a significant overlap in the Plan periods of the adopted District Plan (to 2031) and emerging District Plan Review (2021 – 2038), providing further opportunity to address any under delivery from current commitments through the allocation of additional sites if required.”*⁶ This statement seems to be suggesting that the preparation of this plan can make up for potential shortfalls from the District Plan and Site Allocations DPD which – in effect – provides additional flexibility in the current plan period.
- 1.15 This is not a positive planning strategy and the Council should instead be looking to provide sufficient flexibility now to meet the adopted minimum housing requirement during the current plan-period (Policy DP6). The timescales for the new local plan review are uncertain, a new planning system (as proposed by the Government White Paper) may be in force, and given recent changes to the standard method for assessing local housing need there are likely to be even more significant unmet needs arising from Brighton. Some of which Mid Sussex may need to help meet. Future plan-making should not be an excuse for providing an insufficient ‘oversupply’ to ensure the minimum housing requirement is met now.
- 1.16 Finally, while it could be argued that the identified supply is equivalent to 37.8% above the Council’s minimum residual requirement (as posed in this question); the residual requirement is not the relevant figure to assess the oversupply. The development plan as a whole needs to plan positively for the area to meet its needs, and be sufficiently flexible to adapt to rapid change (NPPF Para 11a). This flexibility should be provided for both the already planned commitments as well as the ‘residual’ element this DPD makes provision for. Policies in the ‘Site Allocations DPD’ are also ‘strategic policies’ which should as a minimum provide for the objectively assessed needs for housing as a whole (NPPF Para 11b). The ‘oversupply’ must therefore be tested against the District supply figure, across the whole Development Plan, not the Council’s identified residual.

If the Plan is found to be insufficiently flexible in this regard, what further steps should the Council take to rectify this?

- 1.17 To make the plan effective in meeting the District’s housing needs, there must be more deliverable and developable sites allocated now in order to increase the plan’s buffer and therefore its flexibility to meet housing needs.
- 1.18 The Council should focus on small and medium sized sites that can often be build-out relatively quickly (as noted in Para 68 of the NPPF) in the earlier years of the plan period, especially when strategic sites seem to be stalling. These additional sites should also be sourced first from Category 2 (Larger Villages) and Category 3 (Medium Sized Villages) settlements for which there is an under provision for housing against adopted minimum requirements.
- 1.19 Please also see our response to Matter 3, Issue 3.6.

Are there any sound arguments to support the notion that the amount of the buffer is too great or has been incorrectly applied?

- 1.20 No.

⁶ Page 16, MSDC-01

1.21 In our view a buffer is necessary in demonstrating flexibility to meet housing needs over a whole plan period; housing requirements are generally to be regarded as minimums, to be exceeded so the notion that a buffer could lead to ‘oversupply’ in a negative context is unfounded where otherwise suitable sites for growth exist. It is a matter of planning judgement whether a 2.95% buffer (based on the Council’s figures) is sufficient or not. Our planning judgement is that a 2.95% buffer is grossly insufficient, not in line with other adopted local plans and therefore not justified.

1.22 An evidence-based indication of whether a 2.95% buffer is sufficient can be calculated using the Council’s past delivery forecasts. The table below shows what delivery was anticipated in a given monitoring year since 2017/18 and what was actually delivered⁷. In the latest monitoring year for which there is completions data, the Council (in its ‘Annual Position Statement’ [July 2019]) overestimated its supply by 137 units; equivalent to 13.7%. In 2018/19 the Council’s ‘Housing Implementation Plan’⁸ and the District Plan trajectory grossly over-estimated delivery; by c.60% in both cases.

Table 2 Comparison of Previous Forecast and Actual Delivery

Source of Projected Supply	2017/18	2018/19	2019/20
Housing Implementation Plan (2014-2031) (BP18) (Aug 2016)	878	1,053	1,056
District Plan (2014) (Appendix A)* (March 2018)	c.1,075	c.1,075	c.1,375
Annual Position Statement (July 2019)	~	~	1,140
Actual Completions	843	661	1,003

*Figures for the ‘District Plan’ are shown as approximate given no exact total figures were given on the graph

1.23 The above serves to demonstrate that accurately projecting supply is difficult, but also that this Council has a track record of over optimism. Sites sometimes stall or come forward slower than anticipated (as has already occurred with the ‘Northern Arc’ and other strategic allocations). A sufficient buffer therefore needs to be made that will ensure needs are met across the whole plan-period should such delays occur. A 2.95% buffer cannot be sufficient when even in the case of 2019/20 the Council’s detailed 2019 ‘Annual Position Statement’, prepared in consultation with developers, overestimated supply by 13.7%.

Is the buffer excessive in relation to the requirements of paragraph 73 of the NPPF or Framework?

1.24 Buffers in respect of NPPF Para 73 relate to demonstrating a five-year land supply (‘5YHLS’) and not demonstrating sufficient flexibility (i.e. ‘oversupply’) at a development plan level over the whole plan period, i.e. more than five years (Para 11). That buffer is brought forward from earlier in the plan period. However, Para 73 requires a minimum of a 5% ‘buffer’ and where a Local Planning Authority wishes to ‘fix’ its supply through an Annual Position Statement it must demonstrate a five-year supply plus a 10% buffer. A larger buffer is required when a 5YHLS is fixed to account for greater potential market fluctuations over a fixed period (ID: 68-010). In

⁷ 2017/18 is the first year in the plan-period for which completions had not yet been recorded ahead of the District Plan’s adoption. Also given a lack of data we are unable to review earlier delivery.

⁸ Document ref BP18 associated with the District Plan (published August 2018)

that context it provides a helpful comparator for what a necessary buffer across a whole plan period might be.

- 1.25 When comparing the Council's stated buffer of 2.95% it is below the minimum 5% applied to 5YHLS and is well below the 10% buffer required when fixing a supply. On these measures a 2.95% buffer should not be considered 'excessive'. While the Para 73 buffers are set out in a different context, we consider they serve to show that a 2.95% stated 'oversupply' (or by our figures a 1.68% 'oversupply') is insufficient and thus the plan is ineffective. If a 10% buffer is applied for the next five years based on the PPG stating 'greater potential market fluctuations over a fixed period' there is absolutely no reason why this should not apply over an even longer local plan period.

Word count: 1,555

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

- 1.26 In our opinion, a 'non-implementation' allowance is unnecessary if the buffer is set at the right level; they both serve to make allowance within a trajectory for supply which might not come forward.
- 1.27 A more positive and effective way of providing flexibility would be to simply allocate more sites sufficient to provide at the very least a 10% buffer. This would have the same effect as applying a 10% 'non-implementation' rate as an additional 10% more homes would need to be identified to meet the minimum District requirement. Moreover, allocating deliverable and developable sites now to provide such a 10% buffer will ensure all settlement categories meet their minimum residual need (Policy DP6 and SA10) and it would provide residents with greater certainty as to where development will occur across the plan-period.

Word count: 134

(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?

- 1.28 Strategic sites can be a good way of delivering a large number of homes while also providing a reliable source of supply across a given plan-period (NPPF Para 72). Our 'Start to Finish' (2nd Edition) (February 2020) research demonstrates that such sites can deliver at high rates and provide a greater mix of units. However, they are also associated with longer lead-in times. Reliance largely on such strategic sites must therefore also to be balanced with the provision of sufficient flexibility in the trajectory to adapt to potential late delivery and to ensure sufficient short-term supply to meet needs in the run up to strategic sites actually delivering units.
- 1.29 As per our response to 3.1(i) above, we do not believe the updated delivery trajectory of the 'Northern Arc' site is realistic or justified. As a minimum 209 units should be removed as delivery is anticipated prior to phases of the site gaining detailed permission. Arguably, a more conservative build rate should also be adopted given the rates suggested (averaging 253 dpa in

the plan-period) are extremely high when comparing to historic rates as demonstrated in our 'Start to Finish' research.

1.30 Reviewing the other strategic sites (as per MDSC-01):

- **DP8 – East of Burgess Hill at Kingsway:** completions were recorded in the year anticipated but in two out of three years delivery so far, rates have been below that assumed;
- **DP10 – East of Pease Pottage:** this site delivered two years later than anticipated and delivered 49 units less than anticipated in its first year; and
- **DP11 – North of Clayton Mills, Hassocks:** the site is now expected to deliver three years later than originally anticipated.

1.31 With the exception of site DP8, there has been delay in bringing forward these larger strategic sites. In respect of sites DP8 and DP10 it is likely that both will deliver in the plan-period as both have now commenced, albeit potentially over a longer period given both sites have recorded completions below that anticipated to date. DP11's delivery is more uncertain as reserved matters have yet to be submitted but there is evidence of progress. However, the most uncertain site remains to be the 'Northern Arc' (DP9) as already discussed. If it delivers slightly later than anticipated and/or at slightly lower (arguably more reasonable) rates, then Mid Sussex will be unable to realistically meet the District minimum housing requirement.

1.32 The Council need therefore to allocate more sites to meet the minimum District requirement with an oversupply of at least 10% to ensure flexibility to adapt to rapid change. The District Plan so far has been failing to do this given 67.5% of completions since the start of the plan-period have been windfalls⁹. As per our response to question 3.1(ii) the Council should focus on small and medium sized sites that can often be built-out relatively quickly (as noted in NPPF Para 68). This can help meet immediate shortfalls given the delay in bringing forward strategic sites. In addition, these additional allocation sites should also be sourced first from settlement categories for which there is currently an under provision for housing against adopted minimum requirements (Policy DP4).

Word count: 524

⁹ Please see our response to Matter 3, Issue 3.5 for more detail