

1. Does the submitted plan meet all its legal requirements in relation to the Council's Statement of Community Involvement?**1.1 Statutory Obligations****1.1.1 Planning and Compulsory Purchase Act (2004):**

s19(3) requires the Council to comply with their statement of community involvement.

1.1.2 The Town and Country Planning (Local Planning) (England) Regulations 2012:

s18(2) requires the Council to notify such residents or other persons it considers appropriate to invite representations.

1.2 Policy Obligations

1.2.1 The Council's Statement of Community Involvement (March 2019) (SCI) provides for six General Principles for Community Engagement (Code of Practice). Two of these principles, as follows:

Principle number 1 – Be Timely

"The community should be involved as early as possible in the decision-making process when there is more potential to make a difference. Usually it is best to 'front load' consultation activity and use it to identify potential issues and options. However, consultation can be effectively used to confirm the level of support for particular courses of action too"

Principle number 2 – Be Inclusive

"A key principle of community involvement is that it should be accessible to all those who wish to take part. This may well vary according to the nature of the matter being looked at. Reasonable effort must be made to ensure a representative cross-section of the community is involved including seldom heard groups"

1.2.2 The SCI provides a template for Community Involvement Plans, that "should be completed for all planning policy documents". The relevant Community Involvement Plan (Sep 2019) (CIP). The intended engagement with residents and others, provided by the CIP, is scoped as follows:

"It is important to seek input from the wider public, as the Plan will allocate sites for development in the district and include planning policies that will have an impact upon both the existing and future communities of Mid Sussex."

Section 2: Who will be Contacted?

"... individuals that may have an interest in the Site Allocations DPD."

Section 5: How will people be Involved?

"The consultation will be open to all and we will seek to inform and receive comment from the widest possible range of people."

1.3 How was the Community Involvement Plan implemented?

1.3.1 The Council's submitted Statement of Consultation (Regulation 18) [ref C2] describes how the wider community were consulted (Appendix 3). Albeit all modes of consultation have been marked as satisfied, no evidence is provided in support, no example(s) of compliance are provided, and no consultation process has been particularised as to enable its effectiveness to be gauged. These are not mere abstract concerns. Concerns have been clearly expressed by many who are interested, that they have not been consulted effectively and remain unaware of plan proposals.

1.4 The Council has been requested to explain various means of consultation, and how they have been carried out in practice:**a. Press Releases**

The Council provided a list of media outlets but which excluded the Mid Sussex Matters magazine, distributed 3 times a year to all 73,000 households in the district (see Appendix A).

When asked however whether any of the media outlets (press releases) in fact advertised a forthcoming consultation, the Council confirmed merely that a single local newspaper had done so – only circulated in the Haywards Heath area (Appendix B).

The Council has not stated that any similar press release was included in the (weekly) East Grinstead Courier or the (monthly) East Grinstead Living magazine. This is notwithstanding significant allocations proposed for East Grinstead.

b. Email Alerts

The Council's Regulation 18 Statement of Consultation confirms that 164 individuals were directly contacted by email. Unless previously having registered an interest in specific planning matters however, the Council will have no record of an individual's email address.

The 2018 Mid Sussex Economic Profile states Mid Sussex has a population of 147,000. This means that email alerts could only have reached approximately 0.1% of residents.

c. Social Media

The Council presents no evidence on the number of individuals who follow, or who are automatically alerted to, social media posts – even before the adequacy or otherwise of their content is examined.

d. Council Website

No signposting alerts have been included to consultation on the Council's main website pages. No reference has been made to the Site Allocations DPD consultation in the dedicated 'Consultations' section of the website. The website therefore has not adequately alerted the visitor to either the fact of the consultation exercise, or to the relevant dates by

which the consultation exercise would be carried out. Use of the website alone is also wholly inadequate for those technologically or practically unable to access the website.

e. Static Exhibitions

Static exhibitions were set up at the Council' offices in Haywards Heath and various public libraries. These could only benefit chance visitors or those already aware.

During the regulation 18 consultation, details of the site allocation plans were merely available at the Library in East Grinstead for 4 days. These were not exhibited at all during the regulation 19 consultation exercise.

1.5 Was the Council successful in meeting its obligations for community engagement?

1.5.1 The Regulation 18 Consultation Report confirms that merely 22 representations were received from residents in respect of SA19 and SA20.

1.5.2 In the light of the clear inadequacies in the notification and consultation exercise, the Infrastructure First Group was established shortly before the regulation 19 consultation to raise awareness among residents. This attracted 583 followers, within a short period. Of these, it was asked who had been aware of the regulation 18 consultation, which was answered as follows:

Unaware	498 (85%)
Alerted by friend/neighbour	57 (10%)
Council's website/social media	17 (3%)
Press Campaign	7 (1%)
Library/Council Office	4 (1%)

(names, email addresses and postcodes are available subject to the GDPR).

1.5.3 Coinciding with the Infrastructure First's Group campaign, the regulation 22 Statement of Consultation confirms that at least 600 representations were received from residents for the SA19 and SA20 areas.

1.6 Was the Council justified in not advertising the DPD in Mid Sussex Matters?

1.6.1 It would have been both proportionate and appropriate for the Council to have alerted residents to the DPD Consultations by way of their in-house Mid Sussex Matters magazine.

1.6.2 The Council has since sought to suggest that publication and consultation dates did not always coincide, which is not understood. (see Appendix A).

1.6.3 The Regulation 18 Consultation ran for 6 weeks from 9th October 2019. The Summer issue of Mid Sussex Matters was published on 15th July 2019. There was no mention of Site Allocations DPD. In the circumstances, the Council should have allowed the consultation to run into the Autumn. The Mid Sussex Matters magazine is routinely used to advertise forthcoming events, and is known to be relied upon as the principal source of information by a significant number of readers (a significant proportion of which will likely rely upon this source alone, and therefore will not resort, secondly, to the Council's website, etc.). The

2021 review of the Local Plan was advertised in the spring 2020 edition. It is unclear why the Council proceeded only to advertise within this edition.

- 1.6.4 The subsequent Regulation 19 Consultation ran for 8 weeks from 3rd August 2020. The summer issue of Mid Sussex Matters was published on 6th July 2020.
- 1.6.5 The Mid Sussex Matters magazine is the only publication that the Council could rely on to advertise forthcoming consultations. The Council oversees which articles are published. It is delivered to 73,000 households in Burgess Hill, East Grinstead, Haywards Heath and Mid Sussex villages.

1.7 Were residents prejudiced by the Council's failure to properly consult and/or failure to comply with the SCI?

- 1.7.1 The Council's SCI confirms the imperative of early and effective engagement, from at least the regulation 18 consultation stage, onwards. In the circumstances, there has been no effective or early engagement. There has been no compliance (or substantial compliance) with the SCI. Accordingly, the statutory duty under section 19(3) has not been discharged. Similarly, regulation 18(2) of the 2012 Regulations has not been satisfied. A significant number of local residents have clearly been prejudiced. Infrastructure First had been able to raise awareness of the regulation 19 consultation. However, by this late stage, those making representations for the first time had been denied the opportunity to make representations with the potential to shape the draft plan
- 1.7.2 The High Court's judgment in *Kendall v Rochford DC* [2015] Env LR 21 considered whether, in allocations plan preparation, the council complied with its SCI and discharged its s.19(3) duty. Albeit the Court found no failure on the facts, this judgment was made in the light of the (high) irrationality threshold.
- 1.7.3 The Council has failed to meet its own community involvement approach, which contemplates an effective notification and consultation strategy as to enable a significant proportion of residents to be made aware of the draft plan, and at an early stage (including regulation 18). SCI objectives have not been met, adopted public engagement techniques have not been used, and without any rational reasons being given for this failure. There is clear evidence of a failure to use specific measures in the statement of community involvement.
- 1.7.4 Even if the Council seeks to rely substantially upon its website, it is clear (especially at regulation 18 stage) that merely a proportionately small number of members of the public were consulted. There has been no additional means of consultation, over extensive periods during which the Council could not reasonably rely singularly on the website. The Council has known that its Matters publication is relied upon significantly within the district; the Council's website has inadequately signposted consultation over these same periods.
- 1.7.5 Compliance with consultation requirements set out in the SCI also apply, with equivalence, to the various stages of local plan preparation: s.19(3) of the 2004 Act and in respect of all required documentation.
- 1.7.6 The council has failed to engage effectively with significant sections of the community, and failed to use one or more appropriate consultation techniques most likely to alert these sections to areas of concern. The failure to adhere to stated objectives has compounded the non-compliance. Whilst also there may be a need for flexibility of approach – albeit flexibility

is not stated in the SCI in any obvious terms – this does not justify the Council having failed to adequately notify and having carried out such a limited consultation. The Council’s exercise of ‘judgment’ over these matters has also not been adequately explained in evidence.

- 1.7.7 The complaint over non-compliance extends to communities within the district, as a whole, and is not limited to allocations SA19 and SA20.
- 1.7.8 Attendant breaches under the SEA Directive and SEA regulations also arise: see e.g. s.19(5), Planning and Compulsory Purchase Act 2004 (sustainability appraisal).

2. Has the Council followed due process in its preparation of the Plan, including the process of site selection and public involvement?

2.1 Important documents were prepared and published after the regulation 19 consultation and were therefore unavailable to any or any adequate scrutiny:

a) **Topic Papers:**

Major Development in the High Weald AONB Topic Paper - Dec 2020 [TP1]
Housing for Older People Topic Paper - Dec 2020 [TP4]

b) **Process:**

Local Development Scheme - Dec 2020 [P1]

c) **Employment:**

Northern West Sussex Economic Growth Assessment Update - Jan 2020 [E2]

d) **Transport:**

Road Safety Review - Dec 2020 [T9]

2.2 The WSP Felbridge Junction Options Appraisal (October 2019) in respect of the severely congested A22/A264 junction has been withheld from the Council’s evidence base.

- 2.2.1 Infrastructure First raised this as part of the regulation 19 submission, as did Felbridge Parish Council and East Grinstead Town Council. The Council responded in its Regulation 22 Statement of Consultation:

“The WSP report is a separate jointly commissioned study of the Felbridge junction to aim to improve existing capacity and pedestrian safety issues. The report was primarily commissioned to support the emerging Tandridge Local Plan allocation south of Godstone.

The executive summary report was published as part of the Tandridge evidence base and in support of their Housing Infrastructure Fund (HIF) bid. It does not form part of the Mid Sussex evidence base and is not required to support the Site Allocations DPD as demonstrated by the Mid Sussex Transport Study.”

- 2.2.2 A subsequent freedom of information request made of the Council for the disclosure of the full report, was (wrongly) declined under the EIR exemption 12(4)(d) (Appendix C). The

Council’s Head of Regulatory Services and Monitoring purported to justify this exemption by misconstruing the subject of the request. He did however acknowledge that the full report was material to the plan (Appendix D).

- 2.2.3 The WSP report’s executive summary has been submitted as part of our Regulation 19 consultation pack.

2.3 Having ignored the serious traffic problems in East Grinstead the Council has not followed its own site selection guidance

- 2.3.1 Highways/Strategic Road Network was a stated developability considerations used to assess the sustainability of sites that had passed through the initial selection stage. The Council refer to the NPPF paragraph 103 as a guide to the process:

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health”

- 2.3.2 However, the Council chose not to score any of the site assessment proformas against the Highways section. Nor did the Council provide any commentary on how any (still less, all) sites scored comparatively.

Part 2 - Deliverability Considerations		
10 - Highways		
11 - Local Road/Access	Moderate - Improve	Safe access likely to be gained from Henfield Road, further information required to demonstrate access can be achieved.
12 - Deliverability	Developable	Site promoted to Site Allocations DPD regulation 18 consultation. Site is in control of a housebuilder. Pre - app late 2020, with first completions 2025.
13 - Infrastructure	Infrastructure capacity	Developer Questionnaire - normal contributions apply

- 2.3.3 The assessment notes for the Highways section say that the SYSTRA *“Mid Sussex Transport Study will identify locations with transport constraints.”* With regard to established traffic problems in East Grinstead the Strategic Transport Assessment [T7] highlights the Felbridge junction as a traffic hotspot:

6. KEY LOCATIONS
<u>A264/A22 Felbridge</u>
6.1.1 This signalised junction is currently regarded as a ‘hotspot’ where delays are experienced. Therefore, it would be reasonable to expect ‘severe’ conditions in future year scenarios.
6.1.2 The A264/A22 junction is not identified as having a severe impacts in the Scenarios. However, it should be noted that this junction is flagged as severe in the <i>Reference Case</i> , and operates over capacity; the Scenarios generate slightly more traffic passing through the junction, which increases these impacts further, but not enough to result in severe impacts for the scenarios. Although the nearby developments increase pressure, the model is reporting that the ‘severe’ conditions are attributable to the <i>Reference Case</i> situation rather than the Scenario developments.

- 2.3.4 Not all assessed sites exhibit the same (or substantially the same), existing traffic constraints as East Grinstead. This means that the most sustainable sites are not adequately shown to have been selected in the submitted plan.
- 2.3.5 Site Selection Paper 3 [SSP3] makes it clear that the Sustainability Appraisal was required to test potential sites, relative to each another:

3.5.5 The SA tested each site option on a settlement-by-settlement basis. This was important for two reasons. First, it tested the individual sites against the SA objectives to establish a site's performance in absolute terms. Second, it enabled comparison of sites within the same settlement by establishing the performance of each site in relative terms. Understanding the best site in relative terms means that even if a settlement has a number of sites which individually perform well, only the best performing sites following assessment in that settlement need be considered for allocation when viewed in the context of the District Plan strategy.

- 2.3.6 The site selection process was not carried out as robustly as the Council claims, or carried out adequately. It is most doubtful that sites SA19 and SA20 could properly have been included in the shortlist of best performing sites had this process been carried out adequately.

2.4 Other: Duty to co-operate

- 2.4.1 S.33A, Planning and Compulsory Purchase Act 2004 (see: Sevenoaks DC v SSHCLG [2020] EWHC 3054 (Admin)).
- 2.4.2 The Council has not adequately demonstrated in evidence that it has effectively co-operated to plan for issues with evident cross-boundary impacts when submitted the plan for examination.
- 2.4.3 The evidence does not demonstrate how the Council has approached considering whether it should prepare a joint local plan; whether cooperation should be less formal than a joint local plan but nonetheless proceed on a joint basis (timetabling; joint policies; evidence base; resourcing).

APPENDICES

- Appendix A - Email correspondence with the Council re. press release coverage
- Appendix B - Email correspondence with the Council re. press release monitoring
- Appendix C - FOI Request re. WSP full traffic study report
- Appendix D - Council's Response to FOI Request re. WSP full traffic study report

APPENDIX A

From: Mark Pavier <[REDACTED]>
Sent: 03 September 2020 15:23
To: planningpolicy <planningpolicy@midsussex.gov.uk>
Subject: Press Releases - Regulation 18 & 19 DPD Consultations

Dear Sir/Madam,

I was just looking through the DPD documentation on your website and I stumbled upon the Statement of Consultation Report for the earlier consultation undertaken at the end of last year. I note that the council made a DPD press release on 5th September 2019 but I didn't see anything about it in the local paper.

I can see the press release on your website but I presume you distributed it more widely than this in order to receive comment from the widest possible range of people. Could you let me know:

1. What the 5th September 2019 press release actually involved please, and
2. When the press release was made for the current consultation and what this press release involved please (as I didn't see this one either)?

Also, could you please let me know:

3. if the council published details of either regulation 18 or 19 DPD consultations in Mid Sussex Matters magazine and if not, why not?

Yours faithfully,
Dr Emma Pavier

From: [REDACTED]
Subject: RE: Press Releases - Regulation 18 & 19 DPD Consultations
Date: 8 September 2020 at 13:42:42 BST
To: Mark Pavier <[REDACTED]>

Dear Dr Pavier,

Apologies for not getting back to you sooner, I was awaiting details from our Communications team.

The Press Releases are documented on our website. These were:
Regulation 18 - <https://www.midsussex.gov.uk/about-us/press-releases-and-publications/site-allocation-development-plan-published/>
Regulation 19 - <https://www.midsussex.gov.uk/about-us/press-releases-and-publications/site-allocations-development-plan-set-for-one-final-public-consultation/>

The information is also published on the Council's social media channels (Facebook and Twitter), anyone signed up to the Planning Policy email mailing list will have been notified, all statutory consultees were written to, and anyone making a response at Regulation 18 stage was notified that Regulation 19 was commencing. This is in accordance with the Community Involvement Plan available to view on our website at www.midsussex.gov.uk/SitesDPD.

The Press Releases are distributed to the following:

TV outlets
ITV Meridian News
BBC South East Today

Radio Stations

BBC Radio Sussex
BBC Radio Surrey
Burgess Hill Community Radio
Heart Radio
Meridian FM
More Radio

Newspapers

East Grinstead Courier
Mid Sussex Times
The Argus
West Sussex County Times

News Agencies

Dehaviland
Dods Monitoring
Press Association

Magazines

Cuckfield Life
East Grinstead Living
Hurst Life
Lindfield Life
RH Uncovered
Sussex Living

Websites

BBC News Online
Burgess Hill Uncovered
Crawley News 24

With regards to Mid Sussex Matters – this is published three times a year (Spring, Summer and Winter). Wherever possible, details of forthcoming consultations are included within the magazine, this is our preference as it reaches every household in the district. However publication dates and consultation dates do not always coincide.

For example, for both Regulation 18 and 19 stages of the Sites DPD: the Winter edition would be published after the close of the consultation period, with the Summer edition published months prior to the DPD being approved for consultation by Council and before the content and consultation arrangements had been agreed. It was therefore not possible to include details in MSM.

I hope this helps answer your query.

Kind regards,

██████████

APPENDIX B

From: Mark Pavier <[REDACTED]>
Sent: 09 September 2020 10:20
To: [REDACTED]
Subject: Press Releases - Regulation 18 & 19 DPD Consultations

Dear [REDACTED]

Thank you for your response providing the details of the press release distribution.

While the number and range of press outlets does seem very comprehensive I haven't come across anyone who was alerted to either of the DPD Site Allocation consultations by this means. I am assuming that the council monitors the effectiveness of its press releases so I would be grateful if you could confirm which of the outlets actually covered the press release and for those that did when the information was advertised or broadcast please.

Many thanks in advance,
Dr Emma Pavier

From: [REDACTED]
Date: 15 September 2020 at 09:13:50 BST
To: Mark Pavier <[REDACTED]>
Subject: RE: Press Releases - Regulation 18 & 19 DPD Consultations

Dear Dr Pavier,

My colleagues in our Communications team inform me that they keep an eye on the stories from local newspapers and television coverage. They are aware that the Mid Sussex Times ran a story on 30th July regarding the consultation.

As mentioned before, the Community Involvement Plan sets out how we make the community aware of our consultation on the Sites DPD. This includes a number of methods including social media, print media and writing to all those on our mailing list or who responded to the previous consultation.

You are of course welcome to raise any concerns you may have within your consultation response.

Kind regards,
[REDACTED]

APPENDIX C

From: Paul Tucker [REDACTED]
Sent: 18 January 2021 23:06
To: [REDACTED]
Cc: [REDACTED]
Subject: COMPLAINT re: FOI Request R153284

Dear [REDACTED]

I am disappointed that the Council has issued a Refusal Notice for my Freedom of Information (FOI) request and that in issuing that notice it has failed to ...

- provide a reasonable explanation to justify that the exception under regulation 12(4)(d) applies
- consider the detailed arguments in favour of disclosure and explain its reasoning for dismissing them

The Council has not given due regard to the public interest arguments submitted with the FOI request and its Refusal Notice is not in line with the guidance published by the Information Commissioner's Office (ICO). In the case that I am unhappy with the Council's response I am invited to pursue my dissatisfaction with the Council's Head of Regulatory Services ... which I am now doing.

I have set out for you the information relevant to the request, which I hope you will find helpful. In particular, I would ask that you address your response to the 6 points that I have labelled Q1-Q6.

Information Requested

- A. The date that WSP's final version of Full Report into improvements to pedestrian safety and vehicle capacity at the Felbridge A22/A264 junction was received by the Council
- B. The Full Report itself [The Report]

Background to Information Requested

In 2018 Mid Sussex District Council, along with West Sussex County Council, Surrey County Council, and Tandridge District Council commissioned WSP to undertake an option appraisal for the A22/A264 Felbridge junction.

The Junction Feasibility Assessment Note [the Assessment Note] published in December 2018 (see attached) makes clear that the aim of the option appraisal was to identify improvements to the Felbridge junction that could be delivered to support planned development in Tandridge and Mid Sussex, to achieve the necessary traffic relief. At that time the expectation was for the appraisal to be complete by March 2019.

The Executive Summary Report for the Felbridge Junction Options Appraisal [the Summary Report] was published on 15th October 2019 (see attached). It revealed that ...

- Major developments in Mid Sussex and Tandridge districts were currently being planned that would be contingent upon improvements to the Felbridge junction.
- The baseline scenario assessed the junction to be over capacity in 2018.
- Initially four high-level junction improvement options were assessed.
- Only option 4 provided any improvement in capacity at the end of the plan period but was considered undeliverable in those timescales.
- The recommended option (option 3) required landscaped 3rd party land adjacent to the junction but only offered a temporary improvement to its capacity.
- A further 8 options were subsequently assessed but none of them showed improvements over the recommended option.
- WSP were requested to determine whether the recommended option could be developed further.

Both the Assessment Note and the Summary Report were submitted as evidence to the Public Examination for the emerging Tandridge Council Local Plan.

Refusal Notice

The Council has refused to release The Report under the qualified exception in regulation 12(4)(d) ... *“the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data”*.

Where the Council is satisfied that regulation 12(4)(d) applies, it is required to explain why it believes the exception is engaged and not to simply restate the wording of the exception. The ICO guidance to public authorities on refusing a request, requires the Council to ... *“explain why it believes that the request meets the description given within the exception”* and that the explanation *“should be detailed enough to give the requester a real understanding of why the information has been withheld.”*

The Council’s Refusal Notice simply states that *“the WSP report is in draft form”* and is clearly not detailed enough to provide a real understanding of why it has been withheld.

- Q1. Could you please explain why the Summary Report has a Confidentiality Status of ‘Public’ but the Full Report is only in ‘draft form’?
- Q2. What does the Council mean by saying that the Full Report is in ‘draft form’?

Public Interest Test

Regulation 14 specifies that a Refusal Notice must not only state the reasons the Council decides it need not disclose The Report, but also the matters it considered in reaching its decision with respect to the public interest under regulation 12(1)(b).

In refusing to release The Report, the Council must be satisfied that ...*“in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information”* and in carrying out the public interest test, the Council should objectively consider all arguments in favour of releasing The Report as well as arguments it considers relevant to withholding it. The Council is required to present all of these arguments in its Refusal Notice.

Public interest in favour of withholding The Report:

The Refusal Notice states that the Council relied upon a single argument to support its decision to withhold The Report ...*“Releasing the report in its current form could lead to uncertainty and speculation; potentially affecting the financial interests of the owners of adjoining land.”*

The merit of this argument must be diminished in view of the fact that junction proposals requiring adjoining land are already publicly available in the Summary Report, which has been widely circulated as part of the Regulation 19 Consultation for the Council’s Site Allocation DPD. The Summary Report has also been discussed at publicly attended meetings of the East Grinstead Town Council.

The Summary Report clearly shows that two of the four high-level options assessed by WSP require 3rd party land acquisition next to the junction ...

- “Option 3: Improvements requiring landscaped third-party land – this proposes additional exit lanes to facilitate two turning movements occurring at once, with pedestrians away from the junction”*
- “Option 4: Improvements requiring third-party land that may include buildings – additional entry lane in addition to the above, with pedestrians incorporated into the junction.”*

As a result, any uncertainty about the possible use of local authority powers to acquire third party land, or the possible impact of road widening on properties adjacent to the A22/A264, already exists. The ‘cat is out already of the bag’! Arguably, the detail available in the Full Report would act to lessen that uncertainty and speculation.

Therefore, the weight given to the Council’s only public interest argument in favour of withholding The Report needs to take this into account.

Public interest in favour of releasing The Report:

The Refusal Notice refers to a single argument in favour of disclosure ... *"It is acknowledged that there is public interest in being able to scrutinise the information relating to the A22/A264 Felbridge junction."*

For some reason, the Council seems to have ignored the detailed public interest arguments supplied with the request. These were ...

1. The genuine concern of local residents, regular commuters, and business owners operating in the town as to the future of the A264/A22 Felbridge junction which the highways authority acknowledge suffers from severe congestion in both the morning and evening peak times.
2. The report will contain detailed traffic survey data which would serve to validate (or otherwise) MSDC's strategic traffic assessment of this and other local junctions (conducted by SYSTRA). The WSP Executive Summary shows congestion at this junction to be significantly more severe than the predictions made in the SYSTRA report which relies on extrapolated data. Both cannot be correct and withholding the WSP full report prevents the respective models from being independently scrutinised.
3. MSDC published the SYSTRA study as evidence to support the Site Allocation DPD. In doing so, the Council should have known that WSP report called into question the reliability of the levels of congestion predicted by SYSTRA. This is a most important matter of public interest since MSDC relies on the SYSTRA study to demonstrate the sustainability of the proposal to allocate 200 additional houses along the Crawley Down Road and 550 additional houses at Imberhorne Farm. The lack of transparency risks the integrity of the planning process and the failure to include the material findings of the WSP study in the Site Allocations DPD evidence library inevitably gives rise to a suspicion of wrong-doing.
4. Transport sustainability will be a key consideration at the forthcoming public examination into the MSDC Site Allocation DPD and the A264/A22 Felbridge junction will be at the heart of discussions for the significant allocations in Felbridge and East Grinstead. Failure to disclose the WSP full report will clearly prevent participants from seeing the 'full picture' prior to the examination and therefore risks prejudicing its outcome.

Q3. Do you accept that these are valid public interest arguments please?

In reviewing the Council's original decision to refuse my request you will be aware of the requirement for the Refusal Notice to outline the public interest arguments that were taken into account in reaching your decision.

If the outcome of your review remains the same, the Refusal Notice must also give the reasoning behind your conclusion that the public interest lay in withholding The Report.

Q4. Please list the public interest arguments you considered, both for and against releasing the Full Report

Q5. Confirm the weight you attach to each of the arguments in weighing up the public interest balance

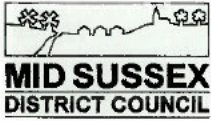
Q6. If you decide to uphold the Council's decision to refuse the request, please explain why you consider that on balance the public interest is best served by withholding the Full Report

Lastly, I should be grateful if you would let me know the likely timescales for completing your review please.

Thank you

Paul Tucker

APPENDIX D



Oaklands Road
Haywards Heath
West Sussex
RH16 1SS

Switchboard: 01444 458166
DX 300320 Haywards Heath 1
www.midsussex.gov.uk

Contact:



Your Ref:

Our Ref: SW1/001909

Mr P Tucker



28th January 2021

Dear Mr Tucker,

Complaint re FOI Request R153284

I refer to your email of the 18th January 2021 in relation to the request for the full report into improvements for pedestrian safety and vehicle capacity at Felbridge A22/A264 junction. I confirm that the Council does not have the final version of this full Report and therefore is unable to provide it to you.

You go on to question why the Council cannot provide a copy of the draft Report on which the summary which you already have was based.

Given there is no final agreed scheme to alleviate the issues mentioned above if this Council were to release draft working papers, they are likely to raise concerns that won't be found when the final Report has been settled. This raises the prospect of property being blighted given the content of any draft proposal that is then not taken forward in the final Report. In the circumstances, I do believe that the public interest test weighs in favour of releasing draft documentation.

You raise public interest test in favour of releasing the Report. I assume you are referring to the final Report. As I said above, the Council does not have the final Report. As you say, this final Report will be material to the DPD discussions with the appointed Inspector later in the year. Once the final Report is available, it will be made public to assist at that Inquiry. The availability of the draft Report at this stage will not assist with these questions.

I therefore uphold the decision of the Council to not disclose the draft Report pursuant to Regulation 12(4)(e) of the Environmental information Regulations 2004. I would point out that your original request was for the final Report which the Council currently does not have. If you are dissatisfied with this response, you are free to raise the matter with the Information

Commissioner's Office whose details you will find on their website. The Council will, of course, publish the final Report once in its possession.

Yours sincerely,

