

Site	<b>Site allocations including Site 68: Farm buildings, Jeffreys Farm, Horsted Keynes</b>
MIQ concerned	1.1 Legal Requirements: (ii) Has the Council <b><i>followed due process in its preparation of the Plan</i></b> , including the <u>process of site selection</u> and public involvement?
Part of document deemed to be unsound	SSP2 - Site Selection Paper 2: Methodology for Site Selection, SSP3: Housing including Appendix B. In summary: Stage 3 of the site selection process and resultant site allocations.
Soundness criteria	Fails on: <b>positively prepared and justified</b> ( <b>positively prepared / justified</b> / effective / consistent with national policy)
New Information available	<p>New information has become available post Reg 19, being the Reg 14 consultation of the Horsted Keynes Neighbourhood Plan HKNP (Nov / Dec 2020). The Horsted Keynes Parish Council HKPC have <u>withdrawn support</u> for the MSDC Site Allocations DPD (on 30/3/21) – Appendix 2). This is following comments made by a large proportion of the respondents regarding the deferral of allocation of sites within Horsted Keynes to MSDC (Appendix 3 - responses to HKNP Reg 14 consultation), and notably here, the unjustifiable exclusion of site 68, Farm buildings, Jeffreys Farm, Horsted Keynes from both the DPD and the HKNP.</p> <p>Site 68 access drawings as per application DM/19/0957 (verified March 2019) (Appendix A)  Site 68 access drawings as per Reg 19 consultation (Appendix B)  Site 68 access drawings as per HKNP Reg 14 consultation (Appendix C)</p>
Reasons for failure	<p><b>The MSDC Site Allocation DPD is unsound as it <u>fails the positively prepared and justification soundness tests</u>, with regards to the site selection process.</b></p> <p><b><u>MSDC has not followed its own process in the preparation of the site allocations DPD.</u></b> They have <u>not</u> made timely corrections or appropriate amendments to the plan as outlined in SSP3, 3.4.11.</p> <p><b>The strategy to prioritise sites for allocation was flawed as critical incorrect information was used in the assessments, thus the assessments were lacking balanced evidence. Corrections were not made within a timely manner resulting in the incorrect information being published at Reg 18. No reasonable reassessments were made to the allocation of sites between Reg 18 and Reg 19 after corrections were made. This shortcoming has led to <u>MSDC failing to follow its own process</u> (SSP3, para 3.5.5) of using the Sustainability Appraisal (SA) to select between sites in a settlement. This led to an irrational omission of sites in Horsted Keynes prior to SA, that, when compared to the allocated sites, would rank equally if not better in a sustainability assessment.</b></p> <p>The process of site selection has not been followed with appropriate due diligence, and sites have <u>not</u> been considered for selection in a <b>consistent or robust manner</b>. This representation uses the example of Site 68 Farm buildings, Jeffreys Farm, Horsted Keynes, but it may well be that other sites have been subjected to the same lack of due diligence. Site Selection Paper 3 (SSP) was a critical Reg 18 document in that it screened out numerous sites prior to SA, but none of the detail of Reg 18 comments that were made about sites screened out in SSP3 has been published, so it is difficult to ascertain if other site promoters have experienced the same indifference. The ‘Background timeline’, below, documents the failings of MSDC to follow their own process for site allocation selection.</p> <p>Site 68 Farm buildings, Jeffreys Farm, Horsted Keynes is 0.75 ha of dilapidated farm buildings (deemed low impact by the AONB for 18 units – Appendix L page 5). It is the only site promoted in Horsted Keynes that has extensive existing built form on it, yet two medieval green field sites (SA28 and SA29) have been allocated in the DPD. This brings in to question the robustness of the selection process at Stage 3, <u>prior to</u> any sustainability assessments.</p> <p>A large proportion of site 68 is occupied by derelict farm buildings, so it may not strictly be described as previously developed land as per the NPPF definition. But the site is <u>not</u> a remote rural site (which the NPPF policy is endeavouring to protect). The site contains extensive built form, is directly adjacent to two residential properties, and is contiguous with the existing continuous built form of the village, all be it removed from the peculiar form of the built-up area</p>

boundary of Horsted Keynes (Appendix O), so should be considered in the spirit of the guidance to be previously developed land.

Background timeline:

**Stage 1: Call for sites and preparation of the SHELAA**

- Sept 2017 – Call for land – Site 68 submitted with adjacent parcels of land
- Sept 2018 - SHLAA sites assessment – Site 68 carried forward

**Stage 2: High level site assessment**

- Sept 18 - SSP1 - Site 68 carried forward

**Stage 3: Detailed site assessment**

- Dec 2018 - SSP2
- Jan 2019 – Amendment to site boundaries at Jeffreys Farm (including Site 68)
- March 2019 – (SSP3, 3.4.9) Proformas sent to landowners for verification – Site 68 contained **critical incorrect information** regarding the access to site 68 stating that access was not possible due to **'land being in third party ownership'**. This was the only 'Severe' element in the assessment. Appendix D.
- 7<sup>th</sup> April 2019 – email sent to MSDC planners correcting the information on access - Appendix E. Site ownership is quantitative information, and corrections should have been made at this time (SSP3, 3.4.10).
- 21st April 2019 - second email to MSDC clarifying the issue following the same incorrect information being used in the Horsted Keynes Neighbourhood Plan (evidence documentation included land registry and legal standing of covenant on land available for access to site 68). Appendix F.
- Aug 2019 – **Site 68 did not progress through to Stage 4: Further evidence testing**, due to **'Difficulties achieving safe access'** (SSP3, page 73). The land required for a safe access was in the same ownership as site 68 as per the corrections sent to MSDC on two separate occasions (above). Notably over 180m of road frontage along Sugar Lane was available for a safe site access. MSDC also had full knowledge of planning application DM/16/3974 (Nov 2016) and planning application DM/19/0957 (March 2019) that contained detailed plans of a proposed access on to Sugar Lane (Appendix A), which was supported by the Highways Authority (Appendix G). This detailed access information available in the planning application was indicated in the corrections sent previously.
- Sept 2019 – Reg 18 documentation published for scrutiny committee meeting still containing the same **critical incorrect information** (Appendix H) **'land being in third party ownership'**. For this to occur, MSDC has not followed its own process as set out in SSP2 and SSP3. The account in SSP3, 3.4.11 is not factually accurate as the notified corrections regarding Site 68 were not made prior to Reg 18.
- Sept 2019 – Email sent to MSDC planners and scrutiny committee notifying them of the continued use of **critical incorrect information** (Appendix I). Head of planning and MSDC legal response was that comments could be made in Reg 18 consultation (Appendix J and Appendix K)
- Sept 2019 – MSDC scrutiny committee voted to submit documents
- Oct 2019 - Documents went to Reg 18 consultation still containing the same **critical incorrect information (6 months after the corrections were sent to MSDC)**. (Appendix H – Site 68 Jeffreys Farm Buildings Reg 18).
- Nov 2019 - Submissions made to Reg 18 consultation by site 68 promoter (Appendix M)
- Aug 2020 - Reg 19 documents published (SSP3: Appendix B, Page 231) – **site 68 not allocated**. Site assessment of access reduced to 'Significant Improve (yellow) – *'In this location, there could be significant conflict with the existing junction (creating a crossroads). **It has not been demonstrated that a satisfactory access can be achieved to the site**'* despite representations made at Reg 18 indicating otherwise. The failure to allocate site 68 shows MSDC to not be following their own process for site selection.
- Sept 2020 - Submissions to Reg 19 consultation by site 68 promoter including plans showing plans of a second option of access (Appendix B)

- Dec 2020 - Submissions to Reg 14 consultation of the HKNP by site 68 promoter (Appendix N) including plans showing plans of a third option of access (Appendix C)

The above timeline shows that Stage 3 of the site selection process was critically flawed for the assessment of Site 68. Information was not corrected on site proformas in a timely manner to allow **proportionate evidence** to be used in the site selection process.

Site 68 was filtered out at stage 3 of the process on incorrect information, eliminating it from being considered as a **reasonable alternative** and subjected to sustainability assessments, where if compared to the allocated sites **it would rank equally if not better in a sustainability assessment due to the site having existing built form**.

A failing that was observed throughout the progression of the site selections was that the process followed by MSDC was driven by a timeline rather than accuracy of information (as seen by the actions of the scrutiny committee who had full knowledge that the information being provided for consultation was incorrect).

The unwillingness of MSDC to correct information prior to Reg 18 consultation suggests they did not want to take the time to reassess site 68, as it would have an impact on the timeline due to the implications for changes needed in the plan from its allocation. Also, contrary to the statement in SSP2 section 7.2, no officers contacted the site promoter to seek further information on the access following submissions stating that information was incorrect.

When notice of the incorrect information on site 68 became available, and in the public domain following the Reg 18 consultation, MSDC failed to take the time to go back and properly assess site 68 in a **proportionate** manner using methodology from SSP2 and SSP3. This reassessment would have resulted in the site undergoing a **sustainability appraisal** and being tested against other local sites as a **realistic alternative**.

On multiple occasions questions have been raised as to the consistency in implementation of the SSP3. Site 68 was denoted as *'Not Considered Suitable for Allocation'* (SSP3: Appendix B, Page 231). SSP2 – Appendix 1 (page 26) methodology states under Step 2 to *'Remove sites that score "Very Negative" on any Part 1 criteria – classify as 'Not Considered Suitable for Allocation' for the Site Allocations DPD'*. Site 68 (despite the incorrect information being used) should have not been removed from the process, as it did not score negatively on any Part 1 Criteria. See SSP3: Appendix B, Page 231. In comparison all other local sites screened out at this stage scored negatively for their impact on the AONB, a Part 1 criteria (See SSP3 – page 74 –SHELAA sites not considered further following detailed site assessment).

Site 68 did not progress through to Stage 4: Further evidence testing, due to **'Difficulties achieving safe access'** (SSP3, page 74). However, SSP3, paragraph 3.4.13 states *'It is considered that mitigation of these reasons for exclusion is either unavailable or unnecessary in light of more sustainable alternative sites being available'*. In this representation it has been seen that the access is achievable (with three options presented), and thus mitigation is superfluous. In addition, the site having existing built form should be considered highly sustainable so should have remained in the process for potential allocation.

The NPPF (2018) states that *'Plans should be prepared with the objective of contributing to the achievement of sustainable development'* and *'be prepared positively, in a way that is aspirational but deliverable'* (NPPF, para 16). MSDC Local Plan Policy DP4 states: *'The Council will also explore the potential to realise brownfield land housing capacity through the preparation of a Brownfield Sites register'* and as encouraged in the SA Sustainability Objective 7: *'To improve efficiency in land use through the re-use of previously developed land and existing buildings, including re-use of materials from buildings, and encourage urban renaissance.'*

Given these policy objectives, there should be a very strong presumption in favour of sustainable development on previously developed sites. Site 68 Jeffreys Farm Buildings is essentially a previously developed site and the only such site being promoted in Horsted Keynes. Site 68 should be seen as providing the potential for a sustainable development by the replacement of dilapidated farm buildings with a well-designed agrarian style development (Appendix P). Had the plan been prepared in a positive manner this site should have been allocated, as it can only

	<p>enhance the AONB. In stark contrast the premature screening out of site 68 resulted in the site being noted as ‘<i>Assessment indicates site is not a reasonable alternative and is therefore not tested through the SA</i>’ (SSP3 Appendix B, page 231). Following MSDC policy, there would have to be a <u>very compelling</u> reason for it not to have been shortlisted at Stage 3, but this is not evident in the site selection process.</p> <p>The justification for MSDC to screen-out a site with existing built form in favour of green fields (SA28 and SA29), that are medieval in age is perverse. The AONB have stated in a letter to the Horsted Keynes Parish Council (Appendix Q), and one can assume also to MSDC that ‘Our advice is that <u>fields that are medieval or earlier</u> (i.e. pre-1500AD) <b>should be avoided when considering sites for development</b> because these are the fields that best reflect the national significance of the AONB landscape’. Appendix R shows most of the fields around the BUAB of Horsted Keynes are medieval. To screen out a site with existing built form in favour of developments on two medieval field systems is irrational. The exclusion of the site at Jeffrey’s Farm Buildings (68) appears to be untenable as it is a highly sustainable site with existing site access. <b>MSDC have not prepared the plan in a positive manner or followed their own processes (SSP2)</b>.</p> <p>I attach further supporting documentation that has not been seen by the inspector, as it is a submission at Reg 18 by Paul Fairbairn highlighting these issues in a concise and constructive manner (Appendix S).</p> <p>Site 68 is available, suitable and is economically viable, so its allocation supports the NPPF: ‘<i>Planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability</i>’ (NPPF, para 67).</p>
<b>Reference to other DPD documents</b>	Site selection Paper 1 – SSP1 Site selection Paper 2 – SSP2 Site selection Paper 3 – SSP3 (both Housing, and Appendix B site proformas)
<b>How could the document be made sound?</b>	<p><b><u>MSDC has not followed its own process in the preparation of the site allocations DPD SSP2 – this process should be followed in a reassessment of sites.</u></b></p> <p>A reassessment of sites should be undertaken with the <b>correct</b> and <b>proportionate evidence</b>. Once this is complete sites could be considered to be a <b>realistic alternative</b> to the allocated sites, so should be the subject of a <b>sustainability appraisal</b>, to be able to locally rank sites for allocation.</p>
<b>What is the precise change that is sought?</b>	<p><b>To follow due process site 68 (and other sites affected by the lack of due diligence) should be reappraised.</b> The results of the site 68 reappraisal should be considered for the local allocations for Horsted Keynes especially as there is a shortfall in numbers for Horsted Keynes (SUS1,6.33). If the site ranks higher in the SA than SA28 or SA29 it should be allocated. Site 68 is the only site with <u>existing built form</u> being considered in Horsted Keynes and as such increased weighting should be given to the site for sustainability.</p> <p>This could be considered to be a major change to the Site allocations DPD, but the failure of the screening process at stage 3, and the lack of due diligence at that stage has amplified the effects of the use of incorrect information, thus affecting the ultimate allocations in Horsted Keynes. Multiple responses to the Reg 18, Reg 19 and Reg 14 consultations over the last 2 years have consistently challenged the omission of this site, so de facto the site has been consulted upon and could be seen to be a good candidate for a suggested allocation by the inspector.</p>
<b>Appendices</b>	Appendix 2- minutes of Parish Council meeting withdrawing support for the MSDC Site Allocations DPD (30/3/21) <a href="https://horstedkeynesparishcouncil.com/wp-content/uploads/2021/05/EGM300321PCMinsfinal.pdf">https://horstedkeynesparishcouncil.com/wp-content/uploads/2021/05/EGM300321PCMinsfinal.pdf</a> Appendix 3 - Responses to Reg 14 consultation of the Horsted Keynes Neighbourhood Plan <a href="https://horstedkeynesparishcouncil.com/wp-content/uploads/2021/01/20210107-HKNDP-Summary-of-Representations-1.pdf">https://horstedkeynesparishcouncil.com/wp-content/uploads/2021/01/20210107-HKNDP-Summary-of-Representations-1.pdf</a> Appendix A – Site 68 Access drawings as per application DM/19/0957 (verified March 2019) page 28 <a href="https://padocs.midsussex.gov.uk/PublicDocuments/00640368.pdf">https://padocs.midsussex.gov.uk/PublicDocuments/00640368.pdf</a> Appendix B - Site 68 access drawings as per Reg 19 consultation <b>APPENDIX SENT AS EMAIL ATTACHMENT</b> Appendix C - Site 68 access drawings as per HKNP Reg 14 consultation <b>APPENDIX SENT AS EMAIL ATTACHMENT</b> Appendix D - Proformas sent to landowners for verification – Site 68 March 2019

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix E - email sent to MSDC planners correcting proformas and information on access 7<sup>th</sup> April 2019

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix F - second email to MSDC 21st April 2019 clarifying access issue

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix G - Highways Authority comments on access proposed as part of planning application DM/19/0957 (verified March 2019)

<https://padocs.midsussex.gov.uk/PublicDocuments/00642543.pdf> and

<https://padocs.midsussex.gov.uk/PublicDocuments/00644776.pdf>

Appendix H - Reg 18 assessment of site 68 in documentation published for scrutiny committee meeting

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix I - Email sent to MSDC planners and scrutiny committee notifying them of the continued use of critical incorrect information

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix J – Head of planning email response to challenge to scrutiny committee (prior to Reg 18)

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix K - Head of legal MSDC email response to challenge to scrutiny committee (prior to Reg 18)

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix L – AONB assessment of SHLAA sites in Horsted Keynes

<https://horstedkeynesparishcouncil.com/wp-content/uploads/2019/01/09-AONB-advice-on-Horsted-Keynes-SHELAA-Sites.pdf>

Appendix M - Submissions made to Reg 18 consultation by site 68 promoter – should the Inspector need sight of the attachments to this submission they can be provided.

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix N - Submissions made to Reg 14 consultation of the HKNP by site 68 promoter (page 122 - 156)

<https://horstedkeynesparishcouncil.com/wp-content/uploads/2021/01/20210107-HKNDP-Summary-of-Representations-1.pdf>

Appendix O – Horsted Keynes built up area boundary – note BUAB omits houses to the south of the village along Lewes Road and Treemans Road

<https://www.midsussex.gov.uk/media/2340/14a-horsted-keynes-inset-map.pdf>

Appendix P – Aspiration / vision for the development style and form of Site 68 Jeffreys Farm buildings submitted as addition to Reg 14

**APPENDIX SENT AS EMAIL ATTACHMENT**

Appendix Q – AONB letter to HKPC regarding medieval field systems in Horsted Keynes Oct 2016

<https://horstedkeynesparishcouncil.com/wp-content/uploads/2016/11/3a.-HWAONB-Response-to-Horsted-Keynes-Reg-14-additional-sites-002.pdf>

Appendix R – AONB map of medieval field systems in Horsted Keynes

<https://horstedkeynesparishcouncil.com/wp-content/uploads/2016/11/AONB-character-components.pdf>

Appendix S - Reg 18 submission by Paul Fairbairn highlighting issues with the selection process (provided to me personally with approval to publish)

**APPENDIX SENT AS EMAIL ATTACHMENT**