

Mid Sussex Local Plan 2014-2031 –

Site Allocation Development Plan Document

Examination Hearing 10 June 2021 – Inspector’s Matters, Issues & Questions

Statement submitted on behalf of the Hamsland Action Group (HAG)

Version 2 dated 20 May 2021

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Introduction – Version 2 of Document submitted on 14 May 2021

This is an amended version of the original submission designed to improve cross-referencing within the document and make it easier for the Inspector and other users to follow.

As required by the Guidance Note (GN) and its Appendix B, each of the following statements deals with a separate issue under a MIQ reference and addresses the five points stated in para. 34 of the GN which are referred to as Point 1, Point 2, etc.

The issue statements which follow are all concerned with our challenge to the allocation of SHELAA site 184 in DPD policy SA29. We fully appreciate that the Inspector's hearing is only concerned with MSDC's SADPD and not with the rights and wrongs of planning applications. However, the validity of a site allocation and of the planning department's presumption in favour of its being developed is only really tested when a developer, encouraged by a site's survival of Regulation 18 and Regulation 19 consultations, submits an application and is faced with the challenges on the ground which it entails.

Application DM/20/4692 is a case in point. We believe that the consultation on this application has illustrated the problems identified in our R.19 consultation response on the DPD in forensic detail in a way that earlier consultations could not and has produced new evidence that certain key objections to SA29 are insurmountable, particularly regarding site access, parking stress, and tree protection. Although some of the criticism of this application is specific to its details, much of it would necessarily apply to any substantial development proposal for this site and underlines our view that its allocation was ill-considered.

In the eyes of many residents, the SA29 site's unsuitability was self-evident before the application was submitted and they consider that MSDC's persistence with it and exclusion of what they regard as far more suitable sites coupled with the current inaccessibility of the council's adjoining potential development site which SA29 would solve for the council raises serious questions about the council's impartiality.

They also wonder what notice if any the council has taken of citizens' rights under the Localism Act 2011 and neighbourhood planning provisions to choose (within reason of course) where development should go in their community. If MSDC argues that its decisions were supported by the community's Parish Council, residents can reply that MSDC was supplied in 2019 with abundant evidence that the PC was acting without the support of the community it was supposed to represent. However, from 30 March 2021 this is no longer the position as the PC has withdrawn its support for SA29.

These issues are taken up in the five issue statements submitted below which are backed up by appendices as appropriate. Collectively they show that whilst we oppose SA29 we are still supportive of Horsted Keynes's DP6 obligations and the housing target assigned to it.

Matter 1 – Legal compliance and Procedural Matters

Issue 1 – MSDC’s community engagement re SA29 (MIQ ref. 1.1 (i) & (ii))

Points 1 and 2:

Policy SA29 is unsound and fails ‘consistent with national policy’ test.

Point 3:

In our R.19 response, section A described MSDC’s failure to respond to our R.18 comments and section B traced the history of HK’s Parish Council’s NDP process culminating in its failure to carry the community with it in their support for SA29. Section B referred to a petition to the PC opposing SA29 signed by 330 residents, a copy of which was delivered to MSDC at the end of July/start of August 2019 as evidence that the PC did not represent its community. The divide between PC and residents was underlined by responses to the R.18 DPD consultation where the PC’s support for SA29 was in stark contrast to the unanimous opposition of 89 residents (one of the 82 residents’ responses was from our group) and also by the PC’s acceptance in November 2019 of their consultant’s advice to hand site allocations for HK over to MSDC without any consultation with residents.

Disappointingly for residents, the R.19 DPD’s content for SA29 differed little from the R.18 version, and residents concluded that their views had been brushed aside in favour of a demonstrably unrepresentative PC. Only 28 residents took the trouble to register their opposition to SA29 in the R.19 consultation, but when the current planning application on SA29 became known in January 2021, 150 residents sent in hostile comments.

R.19 consultation was followed by the PC’s S.14 consultation, and as some responses show, failures in community engagement had undermined public confidence in the process and therefore the effectiveness of MSDC’s community engagement prescribed by para. 15 (c) of the NPPF and by its own community engagement policy. However, these responses have led the PC to reverse its previous position as described under Issue 2 below.

On 5 February 2021, I submitted a formal complaint to MSDC on behalf of named members of the HAG. Our first point was that MSDC had failed in its duty to provide feedback on SA29 as prescribed by their community engagement policy. After an unsatisfactory and I believed evasive reply, I wrote again on 3 March attaching two supporting analyses, one of which was on the feedback issue headed *Comment on claim that MSDC’s DPD preparation was “thorough, robust and transparent”*. Section 1 of this analysis is reproduced under Issue 3 below. Section 2 was a commentary on MSDC’s perceived failures in transparency in their responses to R.19 comments and is reproduced in full in Issue 1 – Appendix 1.

I was advised on 5 March that the complaint had been referred to Peter Stuart, Head of Corporate Resources, under stage 2 of the procedure. He finally replied on 22 April, but I considered his reply as evasive as its predecessor and wrote again on 3 May explaining why. The relevant extract from my letter to him is reproduced at Issue 1 – Appendix 2a.

Point 4:

The unsoundness of the DPD consultation process is illustrated by the evasions identified in MSDC’s responses to the valid challenges of residents to its allocation of SA29, and we believe that this indicates a failure to take these objections seriously (see Issue 4 below) and

can only be remedied by replacing this allocation by a site or sites which have virtually none of SA29's many serious drawbacks.

The process of identifying such sites by the Parish Council has been triggered by its passing of the following motion at an Extraordinary Meeting on 30 March 2021:

Cllr Webster then made the following proposal:

The Neighbourhood Plan process has come to a point of reflection when we must reconsider all submissions that have been sent into Regulation 14. An overwhelming response from the community is against the current DPD allocation of 30 dwellings on the land south of St. Stephens Church. Therefore, we must withdraw our support for that allocation under DPD and assess an alternative package of allocations including windfall, around one a year based on past history, to fulfil our obligation.

Therefore, I propose that Horsted Keynes Parish Council withdraw its support for the MSDC Site Allocations DPD following the Regulation 14 public consultation, and a sub-committee of the Parish Council is formally constituted to explore the Neighbourhood Plan allocating sites to fulfil the District Plan's Policy DP6 obligation.

This proposal was seconded by Cllr Forman.

This proposal was passed by 5-0 with 4 abstentions. A NDP sub-committee has been set up to implement it and we await its recommendations. The Hamsland Action Group has done a lot of canvassing of opinion in the village related to SA29 and believes there would be substantial support for an allocation of one or more sites on Jeffrey's Farm, especially the redundant brown field chicken farm SHELAA site 68. As the site promoters are agreeable to follow the HW AONB unit's recommendation of a farmstead model for the site and have identified proposals for access arrangements which we understand are supported by WSCC Highways, the full SHELAA capacity for the 0.75 ha site of 18 units could be realised.

It should be noted that the inclusion of windfall averaging one a year is realistic because the omission of SA29 would still leave the land gap between Summerlea and Burghurst Cottage to the east of St Stephen's Church available for development should the RC Diocese of Arundel and Brighton decide either to respond to residents' calls to make the land available to the Horsted Keynes Land Community Trust for low-cost housing which the CLT assess at 5-6 units or to sell the land for development of 3 houses.

Point 5:

Pending the NDP committee's recommendations, the DPF should provisionally replace SA29 by a SAxx policy proposing site 68 with a housing capacity of 18 units plus an allowance of 10 windfalls (1 per year). Including SA28, this would produce a total housing provision of the 53 units required to meet HK's DP6 obligation, existing completions/commitments (mainly at the Abbeyfield Home) providing the balance of the total of 79 required.

[word count 1022]

Issue 1 – Appendix 1: Comment on claim that DPD preparation “thorough, robust and transparent” dated 2 March 2021

1 Conclusions reached in three detailed analyses of Rydon’s Transport Statement (TS)

[Note: these conclusions are reproduced under Matter 3, Issue 3, Point 3 (p13)]

2 MSDC responses to comments on their DPD

The above conclusions are the result of detailed research by two transport professionals and a graduate. They are illustrated by multiple charts and photographic evidence. These reports show that Rydon’s TS is in key respects not fit for purpose and cannot be relied upon as evidence supporting the planning application. They also demonstrate that the concerns about the unsuitability and dangers of using Hamsland as an access route to the site stated in comments posted on the MSDC by 139 other residents mostly based on their experience and often expressed in an anecdotal way are in fact fully justified. Most noticeable of all is how the TS focuses solely on the post-completion phase and totally ignores the enormous stress this development would place on Hamsland, especially its western section, during construction when 8-9m long and 2.5-2.6m wide 8-wheeler trucks would have to negotiate the stretches of single track produced by parked vehicles, unable to use available passing places and competing for passage not only with residential traffic but also with themselves.

In the interests of thoroughness and robustness, this statement which has been commissioned and paid for by a developer with a vested interest in securing benign conclusions is plainly in need of independent corroboration. And yet it has been taken at face value and without challenge by MSDC’s planning dept., as illustrated in the MSDC’s summary of S.19 responses under the heading of:

Transport

2.1 Comment: Disruption in terms of increased traffic and congestion. MSDC response: The site promoter has provided a Transport Statement (SA29.4) and a Pre-App Response from WSCC Highways (SA29.5).

As explained above, the TS cannot be relied upon, so can the Highways response be relied upon instead? The answer is no, because (a) it relies on the TS, quoting for example the TS parking stress findings based on a demonstrably inaccurate figure of 42 available parking spaces (Pelham and Fairbairn 37, Griffiths 34), and (b) it focuses its comments on the proposed arrangements on the new estate and its immediate access from Hamsland and totally ignores the main objection posed by the great majority of residents to both the site allocation and the planning application, namely that the western section of Hamsland is totally unsuitable to accommodate a daily stream of construction vehicles bringing supplies to the site and removing mountains of earth from it during construction or to accommodate up to a 40% increase in residential traffic flow (59 vehicles in parking spaces on SA29 added to 150 vehicles already owned by residents) thereafter.

2.2 Comment: The road width of Hamsland is insufficient ... MSDC response: None.

The real problem raised dozens of times by residents in multiple consultations is that on-street parking on the north side of the western section of Hamsland reduces much of it much of the time to a single lane. When this is combined with its two bends, it means that traffic entering either end cannot see oncoming traffic until it is too late, leading to various manoeuvres often involving reversing into any available passing spaces or swinging off the road onto the grass verges and footpath to allow two-way traffic flow. This situation will be incomparably worse when one of these vehicles competing for roadway passage is an 8-9 m long and 2.5-2.6 m wide 8-wheeler construction truck. Even worse will be the occasions when two such vehicles meet half-way down this section with no accessible stretch of passing space either can pull into. One or other will have to reverse. Add to this a bunching of normal traffic coming in behind the one or other of the trucks (we have seen five vehicles enter Hamsland within a minute) and you have dangerous gridlock and chaos. These situations will happen if this ill-conceived development goes ahead, and neither MSDC nor WSCC Highways nor Rydon’s

have any contingency plan to cope with it. MSDC's response is a telling blank. Hardly thorough, robust or transparent.

2.3 Comment: The Hamsland/Challoners area already has long standing parking difficulties. MSDC response: The policy wording includes the requirement to improve local traffic conditions by setting back the existing on-street parking spaces in Hamsland into the verge opposite the site.

This will in fact reduce available parking space for residents because the kerbs angling in to the footpath at either end of the parking bay will no longer be available for parking. Removing the grass verge will bring parking vehicles close to passing pedestrians, including the elderly and the young, removing a safety buffer. The grass verge which the layby would occupy is only 1.3-1.4m wide and most vehicles are wider than that, with a Range Rover 2.2m wide and a camper van up to 2.5m wide. Also, from Summerlea to the barrier with Bonfire Lane, Hamsland only has grass verges on the north side, so most of that environmental benefit will be lost. And during construction and afterwards, traffic to and from the site will greatly increase in this quiet stretch of Hamsland. Some improvement! Paul Fairbairn's analysis in particular proves that the take-up of parking spaces overnight in the eastern section of Hamsland is very high and on one of the three evenings he surveyed was 100%. He quotes WCSS highways advice that parking provision on the new estate falls 13 spaces short of policy requirements and concludes that overspill onto Hamsland is likely but there is no capacity to absorb it. The proposed layby is designed to allow large vehicles to access the site, not to improve parking, and as noted above will itself reduce the 18 spaces in the eastern section of Hamsland allowable within Highways Code requirements by one, increasing existing parking problems. So, MSDC's response to a question about insufficient parking capacity is far from thorough and robust and transparent but is misleading and evasive.

2.4 Comment: Inaccurate parking stress survey. MSDC response: Noted

The three reviews of the Transport Statement referred to in section 1 above presented evidence that its parking stress assessment was not fit for purpose. Its surveys were done in the summer of 2019 when an unknown number of residents would have been on holiday, two driveways, a pedestrian crossing point and Highways Code spacing required near the three junctions (Lewes Road and either end of Challoners) were ignored, and the average vehicle length was too small because it was not based on the actual mix of cars, vans and transit vans using Hamsland. When a proper parking survey is done at the right times, the TS's optimistic maximum parking stress of 57% rises to 87-93% (Pelham), 94-100% (Fairbairn), viz. saturation level. Once again, MSDC's response is not thorough, robust and transparent but non-existent.

Access

2.5 Comment: The access would affect a large number of mature trees. MSDC response: ... The concept masterplan shows the retention of all exiting trees and hedgerows on the edges of the site.

This response is speculative as no thorough assessment of the root plates of the mature trees lining the access road onto the site has yet been made by the promoters. Nor have they made proposals for the deep trenches needed under the access road for piping and ducting to connect supplies of mains water and power and sewage disposal to the site. These trenches will cut through the roots of the mature oak whose branches extend as far as the church fencing however close to this fencing they are placed. Dr Helena Griffiths's second comments paper posted to MSDC's site on 11 February does a thorough assessment of the risks these proposals pose to the trees. The Green Party Councillor for our ward is also sceptical whether the methods used to protect the roots will be sufficient to stop the huge weight of trucks taking mountains of soil from the site compacting the roots and restricting water supply. MSDC's response expresses an optimistic reliance on the applicant's proposals for which there is little justification.

Landscape and Ecology

2.6 Comment: Impacts on wildlife. MSDC response: The policy wording and Policy SA GEN will ensure a net gain in biodiversity.

A developer destroys an entire meadow full of wild fauna and flora, and yet somehow there is a net gain in biodiversity? Policies to minimise the inevitable loss of flora would make sense, as the displaced fauna will be forced to go elsewhere anyway but having read Policy SA GEN we cannot see where a net biodiversity gain is coming from.

Infrastructure

2.7 Comment: Impacts on existing utilities infrastructure. MSDC response: The Infrastructure Delivery Plan sets out the broad infrastructure requirements for the allocation, including education, transport, health and recreation. Contributions ...

Residents' comments on utilities infrastructure have referred to mains water and electricity supply and sewage systems which residents see as already overloaded (power cuts, water leaks and loss of pressure, etc.) The response ignores these concerns and is therefore evasive.

Site Selection

2.8 Comment: Adjacent land owned by MSDC. MSDC response: No decision has been for the adjacent land.

[Note: See Issue 2 below]

3 Conclusion

These examples do not support the claim that the DPD process has been “thorough, robust, and transparent.”

Terry Higham

2 March 2021

Issue 1 – Appendix 2a: Extract from my letter of 3 March 2021 summarising the Feedback issue

Dear Mr Stuart,

Re: Complaint re SA29 – your ref PS/EF

Further to your letter of 22nd April 2021, I am not satisfied that you have addressed our complaint for the reasons set out below and will therefore be making a formal complaint to the Local Government Ombudsman.

I will reproduce your reply below in italics and explain my reasons for dissatisfaction with it by way of comment.

...

To turn to the two main components of your complaint.

I think Ms Blomfield sets it out well when she describes the process by which comments, objections and observations are made when compiling a DPD. I imagine that there would be practical difficulties giving meaningful answers to that volume of correspondence and it would invite discourse on an outcome that is itself the subject of independent assurance and verification through a formal examination process.

I am therefore satisfied that the process for dealing with correspondence as part of the Site Allocations DPD is sound and I am unable to uphold your complaint.

Comment: This is a matter of feedback, not correspondence. MSDC's community engagement policy is to provide feedback on representations made in the R.19 consultation concerning the content of the DPD. In purporting to address this part of the complaint set out in my email to Ms Blomfield of 2 March you have ignored the actual complaint, which was (my underlining):

You write: "The Council is not obliged by legislation to provide specific feedback to every consultation response received" and add that you are only required "to make all responses available online and to provide a summary of issues that have arisen", which you have done. But when we seek feedback on section F of our R.19 submission headed 'MSDC's conflict of interest re site SA29' all we find under 'Site Selection' is a reference to your ownership of land adjacent to SA29 and a response stating that no decision had been taken regarding this land. Your summarisation of our comment suppresses the representation we made by omitting all reference to 'conflict of interest' and this enables the response to ignore it. Moreover, the response does not rule out development of the land at a future date with access provided via SA29 which it could have done by a commitment to ensure that the only SA29 site layout that would be acceptable would block access to its south-western boundary. Our complaint is that your response fails to address our objection or to fulfil of your commitment to transparency.

How does your reply address what I have underlined? The fact that the DPD and R.19 responses will at a later date go before a government inspector for examination is no excuse for MSDC's failure to discharge its responsibility to provide feedback. This failure in transparency is a serious matter.

Matter 1 – Legal compliance and Procedural Matters

Issue 2 – MSDC 's conflict of interest re SHELAA site 184 (MIQ ref. 1.1 (i) & (ii))

Points 1 and 2:

Policy SA29 is unsound and fails both 'justified' and 'consistent with national policy' tests.

Point 3:

As pointed out in section F of our R.19 representation, MSDC owns land called the Council Field which adjoins site 184, part of which is a recreational green space for residents' use called Constance Wood Field (CWF), previously designated SHLAA 183. What we did not mention was that the Council Field covers 8 acres split between 5 acres for grazing land and 3 acres for CWF. Recent research shows that the development value of land is some 50 times or more its agricultural value, i.e. in the region of £600-750k per acre, so by making CWF available for development MSDC would realise a windfall gain of c. £2m. All local authorities have had to economise because of government cutbacks and it is undeniable that such a windfall would be very welcome. Moreover, pressure on MSDC to find additional land for development will occur in just three years' time when its annual housing target will increase by 20% from 876 units pa to 1090 pa.

Residents justifiably fear that by the time SA29 has been developed, the prospect of all the disruption, air pollution, dust (and the health hazards associated with wind-blown dispersal of dust particulates), incessant noise, traffic chaos (see Issue 3 below), the daily threat of accidental damage to parked vehicles, damage to Hamsland's road surface, parking stress etc. inflicted on our cul-de-sac over a two-year period by that development could again be in prospect, but this time affecting a cul-de-sac increased from 118 homes to 148 and creating an unsightly gap in the landmark tree boundary to create vehicular access onto MSDC's land. Residents who have worked in the construction industry think the mitigation measures proposed to relieve some of this hardship will hardly scratch the surface. In this context, the short-termism of MSDC's responses to our complaint (viz. it has not yet decided the future of its land) does not sit at all well with the long-term perspective of its Local Plan and housing targets.

The substance of these points was made in the stage 2 letter of complaint to MSDC referred to above and can be seen at Issue 2 – Appendix 2b.

It is deeply troubling that senior officers employed by MSDC refuse to acknowledge or disclose that their employer has a vested interest in securing the only low-cost option available for gaining vehicular access to land whose asset value it would consequently be able to increase massively. In these circumstances, the public is bound to question the impartiality of decision-making in this case, especially when it knows that MSDC has put what appear to residents to be insubstantial barriers in the way of far more suitable rival sites. Individuals with similar conflicts of interest would be expected to recuse themselves from the matter in hand, but MSDC have done nothing to remedy the situation.

On the contrary, in response we presume to the call by MSDC's planning officer to rethink aspects of the application, the latest site plan for SA29 posted by the applicant to MSDC's website on 27 April 2021 makes access to MSDC land even easier. We believe this reflects poorly on the institutional integrity of the council and undermines public confidence in the council's conduct of the site allocation process.

Point 4:

If this was the only issue to be resolved, MSDC could make their document sounder by amending SA29 with a legally binding commitment never to seek access to their adjoining land by felling trees on the boundary of SA29 or by insisting on a site plan that precludes breach of the site's western boundary.

Point 5:

The change sought is the one set out in point 5 of the Issue 1 statement, but if that is rejected, SA29 could be made sounder by amending it as described in Point 4.

[word count 674]

Issue 2 – Appendix 2b (continuation of Appendix 2a): Extract from my letter of 3 March 2021 re the Conflict-of-Interest issue

[Note: as in Appendix 2a Mr Stuart’s reply is shown in italics]

...

That brings me to the serious allegations that you have made as part of this complaint. I take the view that organisations do not commit wrongdoing or fraud, but individuals do. Your allegation that Site SA29 is in the draft Sites DPD because it would benefit Mid Sussex through opening access to land in the ownership of the authority is an action that must be attributable to a person or persons as part of this process.

Your complaint provides no evidence that this is the case, save presenting as a fact that agricultural land increases in value when it receives planning permission. That is indeed a fact, but in the absence of the Mid Sussex -owned land being put forward for allocation as part of this process, a planning permission being sought or some other material evidence that Mid Sussex has it in mind to put forward its land, it remains conjecture that Site SA29 has been brought forward outside the process for making such land available. I am therefore unable to uphold this aspect of your complaint.

Comment: Your unwillingness to uphold our complaint is predicated upon an indefensible and indeed startling personal view that “organisations do not commit wrongdoing or fraud, but individuals do.” In law, you are simply mistaken. Organisations in general are legal entities that can be held accountable for their conduct. Hardly a week goes by without media publicity for some wrongdoing by organisations. Surely you must know that public bodies from the government departments downwards can be and have been subject to enquiries into wrongdoing and can be taken to court if consequential loss is suffered by individuals or organisations. A simple internet search confirms that your view is unsustainable. Noble Solicitors’ website, for example, offers to represent parties with complaints against local authorities under a long list of headings starting with “Professional negligence”. And yet this fiction is the basis on which you have decided you cannot uphold our complaint.

...

I note that you are a member of CIPFA. As a Chartered Accountant myself, I would expect a member of CIPFA to understand how conflicts of interest arise and I have no doubt that you do. As a statutory planning authority, MSDC’s duty in law is to make site allocations and process applications with total (and indeed perceived) impartiality and transparency. If it stands in the short or long term to make a substantial financial gain by allocating a particular site and granting planning permission on it, that is a conflict of interest. But MSDC has not disclosed its vested interest in securing SA29’s development in a way that allows future access to its own land next door, and the prospect of a large financial gain does not depend on its having made any decisions to date about the future of that land but on the decisions that it has already made about the neighbouring site and could make in the future as a direct result. With the removal of a few trees which a MSDC planning officer confirmed to me in 2015 is not a great problem, development of SA29 with the site layout proposed by the current applicant would give MSDC future vehicular access to its own land should it decide at some point to include that land in a future DPD and make it available for development. Approving DM/20/4692 or any similar application and the subsequent development of SA29 would give MSDC lucrative options it currently lacks. As you must

know, that is all that is needed for a conflict of interest to arise in this case and that is not “speculation” but fact.

The evidence that MSDC has in the past wanted to develop its land to the west of SA29 but has been thwarted by lack of vehicular access is strong. In her response to the HK PC’s S.14 consultation, a lady observed that she had attended a presentation by MSDC of its intention to develop part of its land south of Hamsland (Constance Wood Field) as long ago as 2000. Following my resignation from HK’s newly constituted NDP steering group in July 2015 at the start of its formulation of proposals to include SHLAA sites 184 (SA29) and 183 (Constance Wood Field) in its draft plan, an exchange of emails between me and MSDC planning officers revealed that MSDC were willing to fell trees on the boundary of SA29 to gain access to site 183 (Mark Bristow, July 2015), that site 183’s presence in SHLAA meant that MSDC saw it as a potential development site (Lynne Standing, August 2015), and that its assessed housing capacity was 28 units (Mark Bristow, December 2015). The most recent evidence arose this year in the refusal by MSDC of a request by the owner of a property which abuts the proposed access route onto SA29 (Summerlea) to place TPOs on mature trees in the site’s southwestern boundary. This contrasted with its grant of TPOs some years ago to residents of the Jeffrey’s farmhouse on trees that could have been affected by development of sites adjacent to their property. This refusal of TPOs was followed by a refusal by MSDC to sell a parcel of the grazing land behind Summerlea to its owner to allow him to extend his back garden. Had this request been granted, the first part of the access route from SA29 onto MSDC land allowed by the proposed SA29 site layout would have been put into third party ownership. MSDC refused this request precisely on the grounds that the parcel of land in question was a “potential development site”.

...

Matter 3 – Housing Delivery over the Plan Period

Issue 3 – Safe access to SHELAA site 184 not available (MIQ ref. 3.3 (v) & (vi))

Points 1 and 2:

Policy SA29 is unsound and fails the 'Justified' test.

Point 3:

SA29 states that access to the site will be gained via Hamsland. This fails the safe access requirement as argued in our R.19 consultation response under section C.

The acceptance by MSDC of a planning application on SA29 in early January 2021 resulted in important new evidence on this issue. 150 residents posted comments objecting to the application, and three of these comments were in the form of reports which not only demonstrated that the applicant's Transport Statement was unduly optimistic but produced new evidence of the unchangeable constraints of accessing the site that would render any substantial development of this site unsustainable. Their conclusions were set out in the document reproduced in Issue 1 – Appendix 1, section 1 (p5)) and were as follows:

- A) "The authority should consider the development impacts contrary to DP21: Transport and a reason for refusal that the scheme has an unacceptable impact on highway safety, fails to protect the safety of road users and pedestrians and has a negative impact to traffic congestion." (Para. 5.2.3 of Pelham Transport Consulting report commissioned by the Hamsland Action Group – see extract at Appendix 3b, posted to MSDC site under that name on 11 February 2021)
- B) "Accordingly, in the absence of any credible evidence that the proposed development can deliver safe and suitable access to the site along Hamsland, I contend that they [the developers] should not be granted permission." (Para. 5.9 of report by Paul Fairbairn – see full report at Appendix 3a, resident of Lewes Road, recently retired chartered civil engineer whose 40 years' career was in the front end of major infrastructure projects and included over a decade as Divisional Director of a major transport consultancy in the UK with c.300 transport planners and traffic engineers, posted to MSDC site on 12 February 2021)
- C1) "MSDC DPD says that any development should make the area 'feel safer and healthier'. This application does not fulfil this criterion, as seen by the many objections raised against this application. This application should be withdrawn until a full transport assessment has been undertaken and been able to be scrutinised by the residents. Mitigation measures currently being suggested by the applicant do not adequately address existing parking stress or the added impact of the development on the flow of traffic on the western portion of Hamsland. These comments should be read in conjunction with the detailed critique of the Parking Stress survey presented, by Helena Griffiths, to be sent by separate email to the planning officer." (Final paragraph of comments by Dr Helena Griffiths posted on MSDC site on 4 February 2021)
- C2) "The parking stress survey SA29.4 is not representative in any way of the lack of parking along Hamsland on a daily basis." (First bullet point on Conclusions page of Attachment 1 'Critical assessment of transport survey SA29.4' by Dr Helena Griffiths posted on MSDC site on 4 February 2021)

An extract from para. 3.47 of Paul Fairbairn's report is worth quoting here:

NPPF paragraphs 108 and 109, WSLTP 1.2.4 and MSDP DP21: Access to the proposed development along the only available vehicular access route via Hamsland is demonstrably unsafe, as summarised in paragraph 3.35. The existing significant hazard of single-track operation along long lengths of Hamsland has developed over the years as car ownership levels have risen and it may be making a step change for the worse currently if COVID accelerates a permanent move to more working from home, which will further increase daytime parking levels. Residents have had no option other than to learn to live with the current situation, and they are very aware of the risks and delay that this brings with it, hence the strength of their objections regarding any development that might make the existing unsatisfactory situation worse. It is fundamentally ill-conceived to propose a development of this scale, with the evident increased risks to pedestrians, car users and property without offering any means of mitigating the increased risk that additional development-related traffic would bring.

In the complaint to MSDC dated 3 March 2021 about lack of transparency on this and other issues referred to earlier, I commented on MSDC 'None' response to a comment about Hamsland's width (5.5 m in its western section) being insufficient as follows:

R.19 Comment: The road width of Hamsland is insufficient ... MSDC response: None.

"The real problem raised dozens of times by residents in multiple consultations is that on-street parking on the north side of the western section of Hamsland reduces much of it much of the time to a single lane. When this is combined with its two bends, it means that traffic entering either end cannot see oncoming traffic until it is too late, leading to various manoeuvres often involving reversing into any available passing spaces or swinging off the road onto the grass verges and footpath to allow two-way traffic flow. This situation will be incomparably worse when one of these vehicles competing for roadway passage is an 8-9 m long and 2.5-2.6 m wide 8-wheeler construction truck. Even worse will be the occasions when two such vehicles meet half-way down this section with no accessible stretch of passing space either can pull into. One or other will have to reverse. Add to this a bunching of normal traffic coming in behind the one or other of the trucks (we have seen five vehicles enter Hamsland within a minute) and you have dangerous gridlock and chaos. These situations will happen if this ill-conceived development goes ahead, and neither MSDC nor WSCC Highways nor Rydons have any contingency plan to cope with it. ..." (Appendix 1, para 2.2 (p5))

The mitigation measures referred to in C1 above comprise a widening of a stretch of the eastern section of Hamsland to provide a parking bay opposite the site entrance. As this type of mitigation was suggested by an MSDC neighbourhood planning officer in 2015 at a time when both SHELAA sites 184 (SA29) and 183 (Constance Wood Field, part of Council Field adjoining SA29) were being proposed for the HK NDP (with access to 183 proposed via 184), this mitigation would no doubt be proposed in any application to develop SA29.

In the above-mentioned formal complaint, I commented on this mitigation as follows:

R.19 Comment: The Hamsland/Challoners area already has long standing parking difficulties. MSDC response: The policy wording includes the requirement to improve local traffic conditions by setting back the existing on-street parking spaces in Hamsland into the verge opposite the site.

This will in fact reduce available parking space for residents because the kerbs angling in to the footpath at either end of the parking bay will no longer be available for parking. Removing the grass verge will bring parking vehicles close to passing pedestrians, including the elderly and the young, removing a safety buffer. The grass verge which the layby would occupy is only 1.3-1.4m wide and most vehicles are wider than that, with a Range Rover 2.2m wide and a camper van up to 2.5m wide. Also, from Summerlea to the barrier with Bonfire Lane, Hamsland only has grass verges on the north side, so most of that environmental benefit will be lost. And during construction and afterwards, traffic to and from the site will greatly increase in this quiet stretch of Hamsland. Some improvement! Paul Fairbairn's analysis in particular proves that the take-up of parking spaces overnight in the eastern section of Hamsland is very high and on one of the three evenings he surveyed was 100%. He quotes WCSS highways advice that parking provision on the new estate falls 13 spaces short of policy requirements and concludes that overspill onto Hamsland is likely but there is no capacity to absorb it. The proposed layby is designed to allow large vehicles to access the site, not to improve parking, and as noted above will itself reduce the 18 spaces in the eastern section of Hamsland allowable within Highways Code requirements by one, increasing existing parking problems. (Appendix 1, para 2.3 (p6))

This so-called mitigation would increase the width of a short stretch of the road to 7.5 m, sufficient to allow both on-street parking and two-way traffic flow for cars and small vans but insufficient to allow the same for large vehicles such as construction trucks. For most of Hamsland, no mitigation is proposed or indeed practicable.

Point 4:

Even if a post-construction increase of up to 40% in residential traffic is considered a reasonable proposal for a huge cul-de-sac given the bottleneck constraints in the western section of Hamsland, we consider the lack of safe access for construction traffic an insuperable problem for this site. When this was discussed with the NDP planning officer in 2015, he suggested that the western section of Hamsland could be widened or on-street parking displaced onto part of site 184, but the impracticability of these ideas was pointed out at the time as well as in our R.18 and R.19 submissions and have not been suggested in SA29 or in the current application. The DPD can only be made sound by selecting other sites which have virtually none of the problems identified in this Issue statement and those that follow.

Point 5:

See point 5 under Issue 1.

[word count (excluding extract from Paul Fairbairn's report) 1407]

Issue 3 – Appendix 3a: Objection to Application DM/20/4692 – Access (Paul Fairbairn)

1 Introduction

- 1.1 I live in Lewes Road in Horsted Keynes and am not directly affected by this proposed development, but I am writing to object to this inappropriately timed and misleading application with the benefit of some relevant experience and credibility: I am a recently retired chartered civil engineer that spent all forty years of my career working in the front-end planning of major infrastructure projects. I led multi-disciplinary teams for many years working to create and refine the physical plans of the proposed development whilst also contributing to the concurrent development of a compelling, multi-faceted planning case for the development in order to secure planning consent. I have worked client side and consultant side and have worked closely for many years in both roles with transport planners. I have also held a Divisional Director role for over a decade in the Integrated Transport Division of a major consultancy comprising c.300 transport planners and traffic engineers across the UK. I am not a town and country planner, so I may miss the nuance of certain points, but I believe that my broad experience gives me an informed platform for making the comments that I do.
- 1.2 I am conscious that many residents who are directly affected by this development will have focused understandably on qualitative objections derived from their direct experience. What strikes me in looking at some of their responses is that there is a broad acceptance that Horsted Keynes must play its part within Mid-Sussex in accommodating new housing, but there is a recurring theme that has run through this response, as well as through many responses to the as-yet uncompleted MSDC Site Allocation DPD and HK Neighbourhood Plan processes, that a development of this scale is in the wrong place within the village, primarily due to the severe constraints of its single means of access, which would lead to intolerable impacts, in particular for the residents of Hamsland and Challoners.
- 1.3 However, I am also conscious that, whilst the consistent and numerous qualitative objections of these residents will carry some weight, the planning process will place greater weight on evidence-based quantitative reasoning, where it is available. Many of the supporting documents to the application purport to provide this. It is essential therefore to review this evidence and to test whether it is accurate, whether it is complete, what other opinions are based on it and whether the resulting recommendations made are securely founded or whether they have been based on misleading information. Where quantitative evidence appears to be inaccurate, incomplete or misleading, I have sought to provide updated quantified evidence that is as accurate, complete and clear as is within my means.
- 1.4 This document focuses on the applicant's Access case, and highlights, with quantified evidence to underpin the assertion, that unfortunately the Transport Statement is inaccurate and incomplete. As the Design and Access Statement and the Planning Statement both draw on the Transport Statement's evidence, these documents are also called into question. The WSCC Highways Planning Officer's opinion has had to draw on the inaccurate, incomplete and therefore misleading evidence in the Transport Statement.
- 1.5 Version history: Rev 1 blanked out number plates, Rev 2 added further commentary on Hamsland road width (3.10) and the visibility splays (3.48-3.51; 3.55-3.56 & 3.70).

2 Design and Access Statement

- 2.1 It is unfortunate that in the Design and Access Statement, the flagship document of the application, the issue of Access is first introduced with a gross error in a section, somewhat ironically entitled 02 Site Analysis – Understanding the site. Figure 6: Development Considerations shows ‘Vehicular route’ access from two directions – Hamsland and Bonfire Lane, without apparently understanding that the site is only accessible from Hamsland. Bonfire Lane is gated at its junction with Hamsland and Challoners, and is a designated public footpath also giving unadopted private road access to the houses along its length.
- 2.2 It is also unfortunate that the windowing of Figure 6 extends to the east of the site to show a distant view across 100m of garden of an adjacent property, but it does not extend west of the site to show the substantive Access issue, namely that the only vehicular connection to the local road network is via the western length of Hamsland.
- 2.3 This might have been an innocent error, but this blindspot to the west is emblematic of an application which minimises any description of the access issues along Hamsland between Lewes Road and the site entrance. This is despite these issues having been the source of so much concern expressed clearly over many years by so many residents of Horsted Keynes through several formal processes, whether that be the various stages of MSDC’s Site Allocation DPD process or HKPC’s Neighbourhood Plan Process.

3 Transport Statement

Existing Highway Network

- 3.1 The description of the Existing Highway Network in paragraphs 2.7 to 2.12 of the Transport Statement is all factually correct, but it is subtly misleading by omission. A reader of the document, who may not be familiar with the area, needs mentally to link “..will access directly onto Hamsland” in paragraph 2.7 with “Hamsland is a residential cu-de-sac” in paragraph 2.8 in order to appreciate clearly that the western section of Hamsland is the only vehicular access to the proposed development (let alone the existing 129 dwellings in Hamsland and Challoners). It would have been helpful for paragraph 2.8 to make this clear explicitly, and all succeeding sections of the Transport statement then to address this important issue very openly.
- 3.2 I believe this is important as one of the functions of these supporting documents to a planning application can be to demonstrate to those affected by the application that the issues have been considered fully and transparently – and that the ensuing decision is therefore based on a robust assessment of the facts. If the documents are opaque or selectively omit transparent consideration of difficult issues, they can lead to decisions being made on misleading, incomplete or incorrect information and they can fuel concern by those affected by a development that the process has, in some way, not been equitable.
- 3.3 I gave evidence four times at the Heathrow Terminal 5 Public Inquiry – the longest public inquiry in UK planning history, the epitome of the then adversarial “see you in court” approach in which those affected by the proposed development were only heard at the point of decision. The pernicious effects of this adversarial approach were evident and led to the rewriting of the planning process for major infrastructure projects through the Planning Act 2008, and ultimately to the introduction of the first National Planning Policy Framework in 2012.

- 3.4 For major infrastructure projects, the Development Consent Order process was introduced in the 2008 Act, with a huge focus on genuine consultation. The promoter is required to listen to and to be seen to be responding to the concerns of those affected through at least two cycles of consultation prior to the submission of an application and certainly well before the point of decision.
- 3.5 Whilst this scheme is clearly of much smaller scale, it is very much subject to the National Planning Policy Framework, which encourages the same approach of early consultation and listening: Paragraph 40 of the NPPF, in discussing the pre-application stage of a proposed development, states that local planning authorities “should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications”.
- 3.6 As far as I am aware, engagement with the local community has never happened regarding this proposal, and as a result, this Transport Statement feels as though it comes from the “see you in court” school of thinking, in that the frequently and clearly expressed concerns of those potentially affected by this proposed development have not been and are still not being clearly and transparently addressed.
- 3.7 This may seem as though it goes off at a strange tangent, but when you boil down the objections expressed by those residents of Hamsland and Challoners directly affected by this proposal, let alone objections by villagers less directly affected by the development, the single biggest concern that they have (but by no means the only one) is the adverse effect that this proposed development would have on the length of Hamsland from Lewes Road to the site entrance. This issue needs to be addressed fully, transparently and equitably in order to make sure that the ensuing decision is soundly based.
- 3.8 The description in paragraph 2.8 that ‘parking occurs primarily along the northern side of the carriageway’ is factually correct, but there is no explanation in the description of



Figure 1: 70m length of single-track operation in Hamsland between Lewes Road and Challoners (View looking east along Hamsland, c.40m east of Lewes Road junction. Friday 5th February 2021 @ 09:23:)

the existing highway network in paragraph 2.8 that this parking has the effect of converting significant lengths of the sole vehicular access route to the site of the proposed development into a single-track road with passing places that come and go at random as gaps appear and close between the parked cars. In the image shown here, taken on a weekday morning during working hours (therefore minimum parked cars, albeit potentially with some February 2021 distortion due to COVID with people furloughed or working from home), the longest unbroken single-track length was 70m. In a new parking survey that was undertaken over three days recently (which is described starting at paragraph 3.22), the shortest unbroken single-track length that was observed was 50m and the longest was 90m.

- 3.9 There is also nothing in the explanation of the existing road network in paragraph 2.8, when it describes the parking on the north side of the road, to say that some of this parking is on the inside of two bends in western length of Hamsland. Nor does it explain that when vehicles are parked on the inside of these bends, this severely restricts forward visibility along the road in these single-track sections, and that this increases the occurrences of vehicles meeting head-to head as drivers may not see an oncoming vehicle until they are beyond a passing place and have committed to entering the single-track section.



Figure 2: Blind bend concealing any oncoming cars at entry point to 70m single-track section (View looking east along Hamsland, 20m east of Lewes Road junction. Friday 5th February @ 09:23)

- 3.10 There is nothing in the explanation of the existing highway network in paragraph 2.8 to indicate that, whilst the eastern section of Hamsland is indeed “approximately 6m in width”, the western section is narrower at only c.5.5m wide. Nor is there any explanation that the length of single-track operation along this narrow section of road is such that many drivers already choose to drive up over the kerb onto the grass verge beside the road, and at times onto the pavement, in order to avoid an extensive

reversing manoeuvre in a head-to-head conflict. Figure 3 shows the evident damage which is in the middle of the straight between the two bends in the western section of Hamsland and (as evidenced in the new parking survey, which is described starting at paragraph 3.22) is often at the mid-point of a long unbroken line of parked cars, hence is at the greatest distance from a passing place to which a driver might have reversed.



Figure 3: Evidence of frequent driving on grass verge and pavement along Hamsland as a result of head-to-head conflicts (View looking east along Hamsland c.75m east of Lewes Road junction. Friday 5th February @ 9:22; Inset Monday 22nd February @ 17:34)

- 3.11 There is also nothing in the description of the existing road network in paragraph 2.8 to explain that delivery, refuse collection, emergency vehicles, etc. stopping within these extensive single-track lengths effectively close Hamsland for as long as they are stationary, temporarily blocking any vehicular access to and from the remainder of Hamsland, Challoners and the proposed development site. Whilst a courier delivery may be quick, for something like a heating oil delivery, with nowhere else to go, that can be several minutes.

Existing Traffic Flows

- 3.12 The description of the Existing Traffic Flows in paragraphs 2.13 to 2.15 risks also being misleading. The primary challenge for a reader skimming through this section is that, in the context of a normal two-way road, the commentary in 2.15 that 'Hamsland is very lightly trafficked' is clearly correct. Unfortunately, the risk that the western section of Hamsland may be subject to very extensive lengths of single-track operation makes it appropriate to take this a little more seriously than the bland statement in paragraph 2.15 that focuses the description on an average flow per minute throughout the peak hour.

- 3.13 It would also have been appropriate to describe the inevitability of this flow peaking within the peak hour and, from the data RPS has gathered, to give an indication of the short-term opposing flows which might currently be expected in such a peak within the morning and evening peak hours in the western section of Hamsland. For instance, it might have been appropriate to apply a commonly used 15-minute peaking factor of 1.125 to the peak hour flow and to describe an estimated fifteen minute flow of 3 inbound and 8 outbound vehicles in that fifteen minute period.
- 3.14 It might also have been helpful to describe how long it might take (perhaps minutes rather than seconds) to resolve a head-to-head conflict by reversing back to a passing place, and to explain the number of inbound and outbound vehicles that statistically might be expected to be involved in one of these existing-situation conflicts. This is the experience that Hamsland and Challoners residents have been sharing repeatedly. It would be confidence building for this Transport Statement to indicate that the following analyses, with the addition of traffic arising from either construction or operation of the proposed development, have been built upon an appreciation of this starting point.
- 3.15 One final point regarding this section about existing traffic flows: In Section 7 of the Transport Statement, the analysis of the TRICS database shows the forecast increase in the peak hour trips as a result of the proposed development. RPS comment in paragraph 7.5 and 7.6 that the TRICS forecast additional trips are significantly higher per dwelling than the flows that RPS's contractor observed from the existing 129 dwellings. By looking at the factors that RPS quote, they are about double.
- 3.16 Given this level of disparity, this should raise a quality assurance flag in RPS's mind. RPS should assure themselves, and reassure readers of the Transport Statement, that the traffic count data upon which the Transport Statement relies has been validated, is accurate and did not under-record actual flows. At present, the Transport Statement concludes that the generated flows from the proposed development can be considered as an upper bound, due to differing demographics of the current residents by comparison with those assumed for the proposed development, and infers that additional trips could be as low as half of the TRICS-generated flows if the demographics were similar.

Existing Car Park Stress on Hamsland

- 3.17 Paragraphs 2.16 to 2.24 of the Transport Statement set out the results of a car parking survey carried out on the full c.285m length of Hamsland from Lewes Road to the Challoners / Bonfire Lane junction on two days in July 2019 and the conclusions that can be drawn from this survey.
- 3.18 This is the pivotal section in the Transport Statement, and it is fundamental that it is demonstrably correct and robust, given the other elements of the planning case that flow from it, and given the volume of informed but primarily qualitative objections expressed by so many residents of Hamsland and Challoners about this topic. Unfortunately, it is demonstrably neither correct nor robust. It is so far removed from local experience that it raises a large 'red flag' - it fails the 'sniff test'. But that is not sufficient in planning terms, so I set out additional evidence against which, I contend, the Transport Statement and subsequent conclusions, e.g. WSCC Highways resulting opinion should be tested.

- 3.19 RPS reports that the maximum occupancy at any time over the two days of their survey was 24 parked vehicles, occupying 57% of the available frontage, and at times was as low as 15 parked vehicles occupying 36% of the available frontage. As a result of this data, the Transport Statement summarises in paragraph 2.22 that “on average around 50% of the potential maximum parking capacity is used on a regular basis” and states in paragraph 2.23 that “the survey team noted that there were no issues relating (to) the parked cars and sufficient gaps were provided between parked vehicles for vehicles to pass easily.” It goes on in paragraph 2.24 to state “In summary, the level of on street parking that occurs along Hamsland is not considered significant and there are sufficient gaps between vehicles for vehicles to pass if required. The level of traffic that will be generated by the development will not result in any material change to the flow of traffic (to) that which currently occurs.”
- 3.20 This ‘evidence’ and resulting summary is so far removed from local experience, that I was moved to repeat the car park survey methodology over three days in February 2021. The quantitative evidence gathered is very different from that reported by RPS and clearly aligns with the qualitative local experience, which holds that parking levels are far higher than stated by RPS and that, contrary to RPS’s assertion, vehicle movement along the western leg of Hamsland is frequently a problem due to head-to-head conflicts in extended lengths of single-track two-way operation.
- 3.21 But first, it may be helpful to consider why RPS’s original car park survey reported such low numbers of parked cars and why the subsequent analysis showed such low levels of parking stress:
- The survey was carried out over two days, a weekday and a weekend day, in mid-July 2019 and counted the number of cars parked on-street along the full c.285m length of Hamsland.
 - Whilst this was the last week of summer term for state schools in West Sussex, there may well have been a significant number of residents away on holiday in mid-July e.g. retired people, families with no children of school age, families with children at a fee-paying school.
 - The survey only counted on-street parking, so will not have counted any residents’ cars in the eastern section of Hamsland that were parked at that time off-street in St Stephen’s Church car park. The Church is now derelict, and the car park is fenced off, so those cars are now all parked on-street on Hamsland.
 - The analysis reported a potential capacity of 42 cars that could be parked along the full length of Hamsland. This analysis contains several errors. The survey records two drop kerb driveways, both on the western part of Hamsland. There are, and have been for many years, four drop kerb driveways along the western part of Hamsland, and there is also the drop kerb pedestrian crossing in the eastern section of Hamsland opposite St Stephen’s Church. The full length of Hamsland includes three junctions, namely with Lewes Road, with Challoners and with Challoners/Bonfire Lane. Rule 243 in the Highway Code rules out, amongst other things, parking within 10m of a junction, which appears to have been ignored by RPS. Whilst I have not found any WSCC guidance, there are numerous examples of guidance (including ESCC) which recommends an allowance of 6m kerb length per parked car for kerbside parallel parking. Taking all these factors into account, the maximum capacity along the full length of Hamsland is 37 cars, not 42. This is shown pictorially in Figure 4 overleaf.

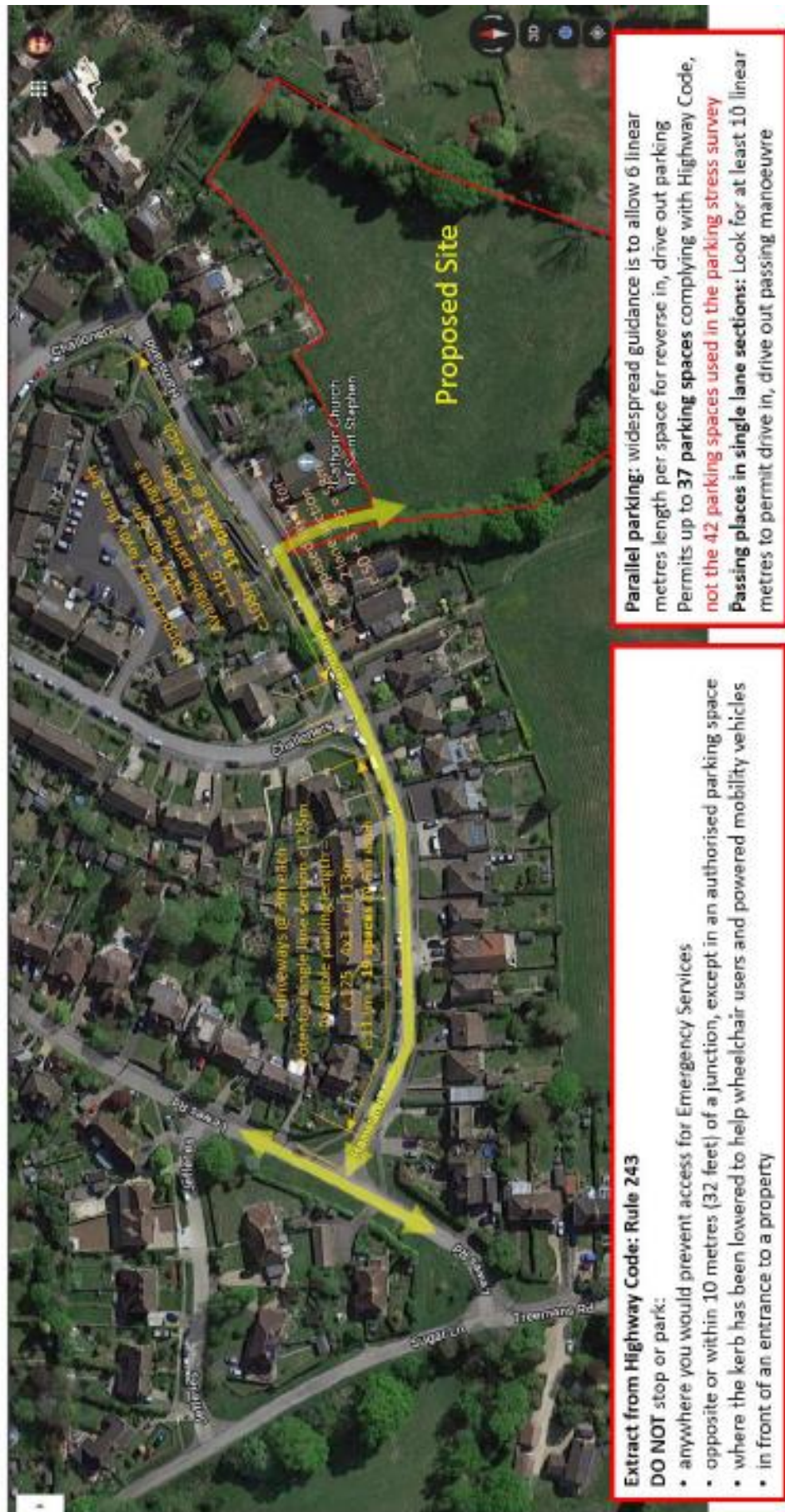


Figure 4: Location Plan, site access route and calculation of parking capacity

- Correcting these capacity errors, but still using RPS's (implausibly low) maximum on-street parking numbers at this stage, would raise the headline level of parking stress by 8% from 57% to 65%. This is shown below in a corrected version of RPS's Transport Statement Tables 2.4 and 2.5. However, the 'Occupied' numbers in these Tables must be treated with extreme caution as they are implausibly low. They can be reviewed in the context of new data gathered in a new parking survey to reflect current conditions, the description of which is set out in the paragraphs that follow.

Time Period	Total Spaces		Spare Spaces	Stress (%)
	Available	Occupied		
06:00 - 07:00	37	22	15	59%
08:00 - 09:00	37	18	19	49%
09:00 - 10:00	37	16	21	43%
12:00 - 13:00	37	15	22	41%
13:00 - 14:00	37	17	20	46%
17:00 - 17:30	37	18	19	49%
17:30 - 18:30	37	19	18	51%
19:00 - 19:30	37	21	16	57%
20:00 - 21:00	37	24	13	65%

Time Period	Total Spaces		Spare Spaces	Stress (%)
	Available	Occupied		
06:00 - 10:00	37	23	14	62%
12:00 - 13:00	37	21	16	57%
13:00 - 14:00	37	22	15	59%
17:00 - 19:00	37	21	16	57%
19:00 - 21:00	37	22	15	59%

Figure 5: RPS Transport Statement: Revised Tables with Corrected Spaces Available

- 3.22 The new parking survey that I carried out was undertaken on three consecutive days from Friday 5th February 2012 to Sunday 7th February 2012. I do not live in Hamsland or Challoners and I undertook this survey with no contact with any other households, in order to ensure that parking levels were not artificially inflated. I was able to gather the data quickly and discreetly, so I believe that the quantitative evidence gathered is not skewed. Clearly there is a question about whether COVID lockdown affects the data with more people working from home, but this should not materially affect overnight occupancy levels, which is the key metric prioritised in paragraph 7.5 of WSCC's Guidance on Parking at New Developments.
- 3.23 Paragraph 7.4 of the same document recommends that "The survey area is expected to centre on the development site and should include areas most likely to be used for parking by those living in, or visiting the site and will, therefore, need to have regard to site access arrangements." There is a strong argument therefore for splitting the parking stress assessment for Hamsland into two sections:
- Section A from Lewes Road to Challoners, where the focus is primarily on the implications of parking stress levels on access to the proposed development and to existing properties in Challoners and at the eastern end of Hamsland. Whilst most of the parking stress in this area can be expected to derive from adjacent properties, with little overspill from the completed proposed development which is some way away, this

western section may be more subject to overspill parking from the site during construction; and

- Section B from Challoners to Challoners/Bonfire Lane, centred on the development site, where the focus is primarily on the risk of overspill parking from the site, both during construction and thereafter post-completion.
- Sections A and B are both a little over 100m available length with capacities of 19 cars and 18 cars respectively.

3.24 The parking survey was carried out as a brief snapshot morning and evening over the three days that were surveyed. None of the surveys was carried out very late at night or very early in the morning (the latest was 21:45 to 22:00 on Sunday 7th February 2021), so I may have understated the maximum overnight parking levels, but all data gathered is significantly above the corresponding parking levels reported by RPS in their July 2019 survey. Whilst WSCC's guidance asks developers for more extensive survey, this was not within my means, but I believe that the data that I have gathered is sufficiently consistent and robust to show clearly that RPS's July 2019 data, upon which so much of the planning case is based is fundamentally flawed.

3.25 I used the same on-site methodology as RPS, by marking parked cars on the survey sheet as a dot, but I then transcribed this data into a more spatially representative format back at home, the results of which are shown in Appendix A.

3.26 The tabulated results for Hamsland Section A (West) are shown below:

Table 1A: Hamsland Section A Parking Stress – Friday 5 February 2021

Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:15 - 09:30	19	11	8	58%
18:15 - 18:30	19	14	5	74%

Table 2A: Hamsland Section A Parking Stress – Saturday 6 February 2021

Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:30 - 09:45	19	11	8	58%
20:30 - 20:45	19	15	4	79%

Table 3A: Hamsland Section A Parking Stress – Sunday 7 February 2021

Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:30 - 09:45	19	15	4	79%
21:45 - 22:00	19	14	5	74%

Figure 6: Paul Fairbairn Parking Survey - Hamsland Section A (West)

3.27 The daytime numbers for Friday and Saturday show the effect, shortly after the morning 08:00 to 09:00 peak, of several residents having left for work, gone shopping or gone out for exercise. However, quoting a parking stress percentage of 58%, the lowest experienced in these surveys, does nothing to reveal that on both these days

this section of Hamsland still had two or three significant lengths of single-track operation:

- 70m and 15m on the Friday with a passing place of 30m between them; and
- 50m, 20m and 20m on Saturday morning with passing places of 15m between them.

By contrast, the Saturday evening and Sunday morning data showed the highest occupancy for this section of Hamsland, with a peak stress level of 79%. On the Saturday evening, this level of occupancy generated the longest length of single-track operation:

- 90m and 15m with a 35m passing place between them.

Over the six periods surveyed, the length of the longest single-track section in each period was measured at: 70m, 70m, 50m, 90m, 75m and 85m respectively.

- 3.28 It should be noted that the results quoted above for the length of single-track operation are conservative. In the urban context of Hamsland, this analysis has used a minimum length of 10m in order to assume that a useable drive-in, drive out passing place has formed between parked cars. Design criteria are given for the design of passing places on a 3.5m wide rural road in Paragraph A6.9 of HS2 Roads and public rights of way, Appendix A: Rural Road Design Criteria, which states:

“The combined width of single-track road plus passing bay shall be 5.5 metres over a length of 5 metres (or 15 metres where likely to be used by buses or heavy goods vehicles). Tapers 5 metres long shall be provided at each end.”

This gives a total length of 15m for a passing place for a car. Had this 15m open rural road criterion been applied to the urban setting of Hamsland (and there is a strong argument that the geometry of a vehicle driving into a passing place, stopping and driving out again would be similar in both a rural and urban setting), some of the passing places shown in Appendix A and summarised in paragraph 3.27 would not have been counted as useable.

Over the six periods surveyed, the length of the longest single-track section in each period would then have been measured at: 70m, 100m, 50m, 90m, 125m and 85m respectively.

- 3.29 The effect of the single-track sections can be exacerbated if one or both bends along this length of Hamsland lie within the single-track section. Cars and vans parked on the inside of these bends significantly restrict forward visibility and, as mentioned in the description of the existing road network, this increases the probability of head-to-head conflicts as the drivers of oncoming vehicles often cannot see one another before entering the single-track section. Over the six periods surveyed, assuming the shorter 10m minimum for a passing place, in five of the six periods the longest single-track section included a blind bend, and the remaining one started on the bend:

Friday 5 th February	Morning	70m single-track section with blind bend
Friday 5 th February	Evening	70m single-track section with blind bend
Saturday 6 th February	Morning	50m single-track section - slight bend
Saturday 6 th February	Evening	90m single-track section with blind bend
Sunday 7 th February	Morning	75m single-track section with blind bend
Sunday 6 th February	Late-evening	85m single-track section with blind bend

Figure 7: Length and alignment of longest single-track section with no passing place (>10m gap)

- 3.30 The Sunday evening data, which was gathered slightly later in the evening than the other days, is perhaps the most representative from the six surveys of the overnight starting condition that could be expected on most days of the week for the morning peak hour period. The very extensive lengths of single-track operation that the evidence reveals are a significant concern, as they present both a serious safety issue and a very material obstacle to the free flow of traffic, even though the traffic flow levels would conventionally represent relatively low flows on a free-flow two-way urban highway.
- 3.31 All six survey events present quantified evidence showing very extensive lengths of single-track operation along the western section of Hamsland. The consistency of the evidence gathered indicates that this is not a freak event – something similar will be repeated every night of the year. The evidence gathered also suggests that single-track operations will be experienced to some extent all day, every day – and, at times, very extensively so.
- 3.32 None of the application material submitted that I have managed to find makes any reference to the access strategies during construction. The new car parking survey indicates clearly that there is extremely limited storage space available for vehicles to wait along the whole length of Hamsland, contrary to the impression created by the Transport Statement. This is most acute in the eastern section of Hamsland, as set out in the paragraphs that follow. If any construction-related parking overflows out of the site into the western section of Hamsland, the existing challenges will be exacerbated exponentially. Construction-related parking and waiting in this area would eliminate some or all of the remaining passing place gaps throughout the working day, not to mention leaving little or no parking provision for residents returning early from work to their home. If construction-related parking and waiting is uncontrolled, single-track operation could extend unbroken for at least 130m from Lewes Road junction to the first Challoners junction.
- 3.33 Further to the issue of possible construction-related overflow parking, if the assumption is that the site would operate typical site hours between 08:00 and 18:00, construction operatives and early morning deliveries to the site would be creating a tidal inflow into Hamsland in and around the morning peak at the same time that there is a tidal outflow of residents seeking to travel out of Hamsland along the same extensive single-track sections of road. A similar conflicting set of flows would arise in and around the afternoon peak.
- 3.34 To compound matters further, heavy goods vehicles making deliveries to the site, some of which would be during the morning peak at the start of the working day, would need passing places up to 10m longer than those required by a car to be able to pass safely in a head-to-head conflict – and this at a time when construction-related overflow car parking may well be reducing already limited empty parking spaces.
- 3.35 Increased flows and any increased overflow parking on this section of Hamsland would lead inevitably to more head-to-head vehicular conflicts, which is a major safety concern. The only means available to resolve these conflicts are for vehicles to have to reverse back to a passing place, if one exists, or to back out onto Lewes Road or into Challoners. This may involve several vehicles at a time and is an unacceptable safety risk. The only other means of resolving a head-to-head conflict would be to drive up the kerb onto the grass verge and, if one or both of the vehicles are large, potentially onto the pavement. This is also inherently very unsafe, not to mention destructive.
- 3.36 These analyses demonstrate that it is entirely reasonable for the residents of Hamsland and Challoners to be concerned about any increase in demand, whether construction-

related or during occupation, that the proposed development would impose on an already highly unusual and significantly stressed link in the road network. This is another area in which the submitted documentation appears to be woefully silent about how it is proposed to address these challenges without making life intolerable for the residents of Hamsland and Challoners. This is not good enough.

3.37 The tabulated results for Hamsland Section B (East) are shown below:

Table 1B: Hamsland Section B Parking Stress – Friday 5 February 2021				
Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:15 - 09:30	18	12	6	67%
18:15 - 18:30	18	15	3	83%

Table 2B: Hamsland Section B Parking Stress – Saturday 6 February 2021				
Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:30 - 09:45	18	16	2	89%
20:30 - 20:45	18	17	1	94%

Table 3B: Hamsland Section B Parking Stress – Sunday 7 February 2021				
Time Period	Total Spaces Available	Occupied	Spare Spaces	Stress (%)
09:30 - 09:45	18	18	0	100%
21:45 - 22:00	18	18	0	100%

Figure 8: Paul Fairbairn Parking Survey - Hamsland Section B (East)

- 3.38 Whilst the weekday daytime occupancy shows some limited overspill parking availability, in this case up to 6 vehicles, all of the evening and the weekend daytime data show little or no spare capacity. The survey sheets show that demand is such that vehicles are already being displaced into and are parking in the 10m junction zones at times, which cannot be an acceptable basis for design.
- 3.39 This evidence reveals a fundamentally different picture from the reassuring message conveyed in paragraphs 2.21 and 2.22 of the RPS Transport Statement that the peak parking stress is just 57% and that “on average around 50% of the potential maximum parking capacity is used on a regular basis”. The WSCC Highways Planning Officer’s consultation response on the proposed development, dated 8th February 2021, in discussing the proposed layby on this section of Hamsland, relies on this evidence and gives her opinion based on the advice that “an average of 50% of potential maximum parking capacity was used”. The new evidence shows that this is demonstrably wrong, which accords with the wealth of anecdotal evidence that has been given by the residents of Hamsland throughout the MSDC SADPD process, and in response to this application, but which appears to have been given little weight in either process to date.
- 3.40 The WSCC Highways Planning Officer’s consultation response goes on to indicate that the WSCC Car Parking Demand Calculator estimates a demand for 62 allocated spaces

and 18 unallocated spaces. The proposed development proposes 62 allocated spaces and 5 visitor spaces and, in the words of the WSCC Highways Planning Officer, "the parking is therefore short by 13x spaces."

- 3.41 She then goes on to say that long driveways may enable this shortfall to be made up within the site, albeit most are already two cars deep, many appear to have limited length remaining to the highway, and such additional driveway spaces as might be deliverable safely do not meet the shortfall in unallocated spaces that can be used by visitors to the proposed development. Given the demonstrable lack of spare parking capacity on the adjacent road system, completely contrary to the advice given to the WSCC Highways Planning Officer in the Transport Statement, the development needs to make explicit provision for this 13 space unallocated parking shortfall on-site.
- 3.42 None of the material submitted that I have managed to find makes any reference to car parking provision during construction. Given the number of trades involved in construction and given essential health and safety provisions and good practice potentially limiting car parking availability on the site, the very limited availability of spare parking spaces during the working day on the adjacent road network gives very serious cause for concern. The applicant needs to explain how this issue is proposed to be addressed.
- 3.43 Any development on the proposed site therefore needs to demonstrate very clearly that it can consume its own car parking demand within the site, both during construction and once occupied post-construction and that it will not affect travel in and out of Hamsland to an unacceptable extent. In my judgement, and based on the new evidence that I have presented in this document, it fails to do this on all counts.

Planning Policy

- 3.44 Section 4 of the Transport Statement summarises the relevant transport policy from several tiers of statutory guidance and plans regarding this proposed development.
- 3.45 Based on the new evidence presented in this document, I would contend that there is a very material risk that this proposed development does not satisfy the following policy requirements and objectives that are highlighted in the Transport Statement:

National Planning Policy Framework (NPPF)

- 108 In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a)
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 109 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

West Sussex Local Transport Plan 2011 to 2026

- 1.2.1 Promoting Economic Growth: A high quality transport network that promotes a competitive and prosperous economy in all parts of the County

... ensure an appropriate amount of parking is provided at new residential development in line with our agreed parking standards

1.2.4 Improving Safety, Health & Security: A transport network that feels, and is, safer and healthier to use.

Mid-Sussex District Plan 2014 – 2031

DP21: Transport

Development will be required to support the objectives of the West Sussex Transport Plan 2011-2026

To meet these objectives, decisions on development proposals will take account of whether: ...

- The scheme provides adequate car parking for the proposed development taking into account the accessibility of the development, the type, mix and use of the development....
- The scheme protects the safety of road users and pedestrians

Guidance on Parking at New Developments (2020)

Principle A: Accommodating Parking Demand

- 4.2. Parking provision should be sufficient to accommodate parking demand while exploiting the potential for sustainable travel, minimising adverse effects on road safety, and avoiding increased on-street parking demand.
- 4.3. If parking could reasonably be expected to take place in existing streets, then it will be necessary to demonstrate through a parking capacity survey (see Section 7) that there is sufficient capacity to accommodate the expected parking demand.
- 4.14. To ensure that developments function efficiently and as intended, detailed consideration needs to be given to the following at the design stage:
 - b) Providing adequate visitor parking at new residential developments - Adequate visitor parking is required and this will be influenced by the level of unallocated parking. Table 2 (Residential Parking Demand) should be used to ensure sufficient visitor parking is provided.

3.46 In paragraphs 4.20 to 4.22 of the Transport Statement, RPS concludes the section about compliance of the proposed scheme with the transportation elements of relevant planning policy with a slightly strange and somewhat equivocal statement that "...the site's location is considered to accord to the relevant land use and transport policy". If this was a clear endorsement that the proposals accord with all of the policy requirements that they went to the trouble of listing, including safety, levels of parking provision etc., I would have expected a more unequivocal statement such as "...the proposals are considered to accord to the relevant transport and land use policy".

3.47 Whilst the site is as well-linked as any in Horsted Keynes to walking, cycling and public transport modes, I would contend that the current proposals fall short of each of the policy and guidance stipulations highlighted above in paragraph 3.45:

- NPPF paragraphs 108 and 109, WSLTP 1.2.4 and MSDP DP21: Access to the proposed development along the only available vehicular access route via Hamsland is demonstrably unsafe, as summarised in paragraph 3.35. The existing significant hazard of single-track operation along long lengths of Hamsland has developed over the years as car ownership levels have risen and it may be making a step change for the worse currently if COVID accelerates a permanent move to more working from home, which will further increase daytime parking levels. Residents have had no option other than to learn to live with the current situation, and they are very aware of the risks and delay that this brings with it, hence the strength of their objections regarding any development that might make the existing unsatisfactory situation worse. It is fundamentally ill-conceived to propose a development of this scale, with the evident increased risks to pedestrians, car users and property without offering any means of mitigating the increased risk that additional development-related traffic would bring.
- WSLTP 1.2.1, MSDC DP21 and GPND 4.2, 4.3 and 4.14: The West Sussex Highways Planning Officer confirms in her consultation response that the proposed development is 13 unallocated parking spaces short. Her hope that these can be provided satisfactorily elsewhere within an already densely developed site looks to be somewhat optimistic and needs to be proven. There is demonstrably no spare capacity on Hamsland in the vicinity of the site entrance for any overspill parking from the site, all as summarised in paragraphs 3.40 and 3.41.

Development Proposals and Access

- 3.48 Section 5 of the Transport Statement describes the transport elements of the development proposals and their access. I do not take issue with the elements regarding the proposed layout of the roads within the development. These essentially look to be well-conceived and the proposals are well-presented.
- 3.49 However, I do take issue with the design of the junction with the eastern section of Hamsland, including the new layby that is proposed on Hamsland to maintain car parking spaces and necessary road width opposite the access to the site. Paragraph 5.11 states that “The visibility at the proposed junction ensures there is adequate inter-visibility between vehicles on the major and minor arms” and paragraph 5.20 directs the reader to a drawing of the proposed visibility splays at Appendix G of the document. Having taken measurements to check the space available, the layout and visibility splay shown in Appendix G cannot be delivered within the highway and land within the applicant’s control – paragraph 5.11 is therefore incorrect and has misled the West Sussex Highway Planning Officer to draw an incorrect conclusion that “Splays of 36.1m west and 35m east have been demonstrated as achievable within public highway thus the LHA are satisfied that suitable visibility for the anticipated speeds along Hamsland has been demonstrated, for a car emerging from the access”.
- 3.50 The existing highway at this point is 11.0m wide, comprising (from south to north):
- | | |
|-------------|-------|
| Pavement | 2.0m |
| Road | 6.1m |
| Grass verge | 1.4m |
| Pavement | 1.5m |
| Total | 11.0m |

Appendix G shows the 2.4m x c.36m visibility splays within the highway and on land within the applicant's control. For the western visibility splay, about 3m, representing c.1/12 of the splay is within the site, which means that c.0.2m of the X distance of the visibility splay can be within the site, which would push the give way line c.2.2m into the highway. The future highway in this instance would then be:

Pavement (to give way line)	2.2m (to provide 2.4m X distance)
Road width for swept path	5.7m (as shown in Appendices G and H)
Available for layby	1.6m which is insufficient, as shown in 3.51 below
Pavement	1.5m
Total	11.0m

- 3.51 There is insufficient space to deliver these visibility splays and a useable layby, as shown in Appendix G in the space available. To put this in perspective:

Smart Car	1.663m wide without mirrors	1.893m with mirrors unfolded
Ford Focus	1.848m with mirrors folded	1.979m with mirrors unfolded.
Ford Transit	2.112m with mirrors folded	2.474m with mirrors unfolded.

Contrary to the assertions in paragraphs 5.11 and 5.20 of the Transport Statement, the applicant has not demonstrated how satisfactory visibility splays and a useable layby can be provided in the space available if the required swept path road width of 5.7m is to be delivered. As a consequence, the WSCC Highways Planning Officer and the Road Safety Audit team have been misled and their conclusions are unsound.

- 3.52 In paragraph 5.24, the Transport Statement declares that "the developer will use the West Sussex Residential Parking Demand Calculator to calculate the number of parking spaces required at the proposed development." But it is clear from the West Sussex Highways Planning Officer in her consultation response that this is incorrect and that the submitted proposals are 13 unallocated spaces short of the requirement. The new car parking survey indicates that there is absolutely no spare capacity in the eastern section of Hamsland for any site-related parking demand to overspill out onto the existing on-street parking, which is already fully subscribed, and is already leading residents periodically to have to park within 10m junction zones in contravention of Highway code rules.
- 3.53 As with the rest of the Planning Statement, the fundamental deficiency in this Section is that there is absolutely no description of any proposed intervention to provide a safe means of access along Hamsland between Lewes Road and the site entrance. In the absence of a deliverable solution to the problems set out above, I would contend that this proposal is un-consentable and should be rejected.

Road Safety

- 3.54 Section 6 of the Transport Statement describes a Stage 1 Road Safety Audit (RSA) commissioned by RPS from Taylor Bowie Ltd. in accordance with the requirements set out in WCC's Safety Audit Adopted Policy (which appears to derive from paragraph 7.1 of the West Sussex County Council: Local Design Guide Supplementary Guidance for Residential Development Proposals - or vice-versa). From Appendix A of the RSA, Taylor Bowie were briefed to review two elements:
- Proposed Site Access – Visibility Splay
 - Proposed Site Access – 12m refuse Vehicle Swept Path Analysis.

- 3.55 At face value, the RSA appears thorough, and it picks up on the risk of a head-to-head vehicle conflict at the short pinch point on the site access road and encourages the designer to address this deficiency. From Appendix G, which appears to be one of the two drawings in the brief to the road safety auditor, it is clear that this pinch point narrows the site access road from 5.5m down to 4.8m over a short length. The designer has responded to the RSA finding by extending the length of the road at 5.5m width in order to reduce the length of the pinch point. Whilst it is not clear from the drawings, it would appear that this pinch point only occurs for a few metres as the access road passes two mature trees, and is perhaps 10m to 20m in length?
- 3.56 Paragraph 5.7 of the Transport Statement indicates that vehicles parked on the eastern section of Hamsland adjacent to the site entrance reduce the available road width to just 3.5m. As a result of this, the proposals include an intervention to widen the available road width opposite the site entrance to a maximum of 5.7m by the introduction of a layby. However, the RSA did not pick up that Appendix G is misleading and the layout that it shows does not fit in the available highway width. As a result, the RSA did not raise any concerns in Section 3.3 Junctions, which might have been expected had the inaccuracies of Appendix G been appreciated.
- 3.57 On the narrower western section of Hamsland, parked vehicles reduce the available single-track road width even more - to between c. 3.0m and 3.5m. From the results of the new car park survey, it is evident that these very narrow single-track pinch points on the approach along Hamsland to the site regularly exceed 50m in length, have been observed to get to 90m in length, and in the aggregate over the full length of Hamsland to the west of the site access, can already aggregate to well in excess of 100m in length, as shown pictorially in Appendix A of this document.
- 3.58 Even RPS's parking survey, with implausibly low parking numbers, will have generated 3.0 to 3.5m wide single-track pinch points of 25-30m in length or more. As a 10-20m long pinch point down to 4.8m width serving 30 homes was sufficient to generate an auditor comment and a designer response, it seems to be an astonishing omission that Taylor Bowie weren't briefed to look at the safety implications of adding additional development-related traffic to these existing 3.0 to 3.5m wide pinch points. These extend over a much greater distance on the only access from the local road network to the proposed site and would be carrying traffic from the vast majority of the 159 dwellings in Hamsland, Challoners and the proposed development.
- 3.59 As a result, there is no RSA commentary on this very significant hazard in the Planning Statement, nor is there any designer response to any comment that might have been made by the auditor. I would contend that, in the absence of any evidence-based, informed consideration of this issue, the proposal as currently conceived is demonstrably unsafe and therefore fails to comply with multiple planning policy requirements, as set out in paragraph 3.45 above. It is therefore un-consentable and should be rejected.

Trip Generation and Traffic Impact

- 3.60 The additional peak hour traffic as a result of the proposed development will increase significantly the flows to be handled along Hamsland. In Section 7 of the Transport Statement, the analysis of the TRICS database quantifies this forecast increase in the peak hour trips. As mentioned earlier, RPS observes that the forecast peak hour trip rates per dwelling are considerably higher (about double) than the observed peak hour trip rates in Hamsland and Challoners. They surmise that this is due to demographics

and in paragraphs 7.5 and 7.6 they invite readers to expect that the reality will be fewer additional trips than forecast. RPS may well be correct in inferring this, but in making this comparison with existing trip rates, they do not indicate anywhere that the observed peak hour counts have been validated and are known to be an accurate representation of current conditions.

- 3.61 Knowing something of the demographics of Hamsland and Challoners, I could accept that trip rates would be somewhat below the '100% home ownership level' figures that RPS have derived for the proposed development, but double the trip rate of existing feels to be a stretch and calls one set of numbers or the other into question.
- 3.62 The experience with the car parking survey indicates that something is very different between the data that RPS gathered in mid-summer 2019 and data that can be gathered now. Intuitively, one might not expect overnight parking levels to be very different as a result of COVID (they appear to be, but why?), but one might reasonably expect morning and evening peak hour flows to be suppressed at the moment (are they, and, if so, is it enduring?).
- 3.63 Given the disruption to free flow of traffic that the extended single-track operations along Hamsland create, it feels particularly important to have high confidence levels in the number of vehicles to be handled with and without development. The large disparity in trip rates undermines that confidence.
- 3.64 Assuming for now that the data regarding existing peak hour flows is correct, the increase in morning peak hour flows along Hamsland between Lewes Road and Challoners is forecast to be up to 56%. As a minimum, if one pro-rated existing trip numbers assuming equal trip rates, the increase would still be as high as 23%. Given the difficulties currently experienced on Hamsland due to extensive single-track operations with passing places, any increase within this range is highly significant and should not be dismissed as inconsequential, despite the conventionally low flow rates.
- 3.65 It remains important also to consider 'peakiness' within the peak hour. It is completely wrong in paragraph 7.7 for RPS to describe the number of forecast trips in the morning peak as representing one additional trip every three minutes. This is not like a car rally or a bicycle time trial with cars being released at set intervals. This will involve randomness, it will involve outside influences, it is a matter of statistics and distributions. People leaving for a popular train, the shops opening, a film or an event starting, for instance, will create peaks. There will be an occasion when (say) 4 of those 22 trips all happen in the same minute – it may not be frequent, but it will happen, and it is probably more likely to happen in the peak hour, as the peak hour is the peak hour because more things are happening then to cause flows to clump together in a non-linear manner than in quieter hours.
- 3.66 If Hamsland was a wide two-way road from Lewes Road to the site entrance, this would not matter as the existing and additional flows along Hamsland in that paradigm are so low. But with perhaps about half of the length of the only vehicular access between the site and Lewes Road operating as single-track road in the morning peak due to parked cars (perhaps 100m to 120m of 210m), short term peaks will matter.
- 3.67 I do not know how one accurately assesses how Hamsland would cope with this additional traffic. This is such an extraordinary situation that I am sure that one cannot rely on free-flow concepts of highway capacity. I do not know what sort of modelling could build understanding and confidence here. I am not aware that a micro-simulation tool such as VISSIM could cope with the head-to-head conflicts that are experienced in Hamsland.

- 3.68 It is for the promoters to commission studies, with robust validated input data, to enable this to be understood properly and explained transparently to those that need to make decisions and to those that would be affected by any decision. (In the context of the Site Allocations DPD, it is perhaps for MSDC also to commission similar studies to underpin the assessment of site SA29).
- 3.69 That work has not been done, and in the absence of that, I would contend that these proposals cannot be demonstrated to comply with many of the planning policy imperatives set out in Section 4 Planning Policy of the Transport Statement, as summarised above in paragraph 3.45. As a result, I would further contend that these proposals are un-consentable and should be rejected.

Summary and Conclusion

- 3.70 In Section 8 of the Transport Statement, RPS draws many of its threads together. I do not take issue with the conclusions that they summarise in paragraphs 8.1 to 8.6 and 8.8. I do take issue with paragraphs 8.7 & 8.9 and the final three conclusions in 8.10 to 8.12:
- In Paragraph 8.7, RPS claims that “The visibility at the vehicular access is provided in accordance with the advice contained within Manual for Streets” and goes on in paragraph 8.9 to state, “As part of the access proposals, a new lay-by will be provided to the north side of Hamsland in the vicinity of the site to accommodate the existing on-street parking and allow vehicles to pass more easily”. The 11.0m available highway width does not permit both of these statements to co-exist – if 5.7m road width is to be maintained for turning traffic at the entrance to the site, as required by the swept path analysis. The applicant needs to demonstrate clearly how it proposes to reconcile this currently incompatible set of requirements without losing much-needed on-street parking spaces on the eastern section of Hamsland.
 - In Paragraph 8.10, RPS states that the developer will use the West Sussex Residential Parking Demand Calculator to calculate the number of parking spaces required at the proposed development. However, this is a planning application, not a discussion about a future planning application. WSCC’s Highways Planning Officer has confirmed that the 62 car parking spaces included in the proposals fall 13 unallocated spaces short of the required number. In the absence of any plan showing how 13 additional spaces with the required unallocated space flexibility can be accommodated within the site without this demand overspilling onto already stressed on-street parking on Hamsland, this criterion has not been met.
 - In Paragraph 8.11, RPS states that “The proposed residential of up to 30 dwellings are predicted to generate up to 22 two-way vehicle trips in the morning peak hour and 19 two-way in the PM Peak hour resulting in no more than one additional vehicle every 3 minutes”. I can confidently predict that RPS’s assertion that the proposed development will result in “no more than one additional vehicle every 3 minutes” is incorrect and is misleading.
 - In Paragraph 8.12, RPS states “In conclusion, the site can achieve safe and suitable means of access for all modes and the development will not materially impact on the operation of the local highway network. As such there are no transport reasons why the development should not be permitted.” As set out above, I believe that the absence of any Road Safety Audit assessing the impacts of adding development-related traffic to the existing extraordinary single-track operation of the western section of Hamsland is a startling omission. The absence of any construction-related analysis is a further

unacceptable omission, as the quantum of construction-related additional parking and waiting on Hamsland is probably far greater than the possible overspill parking from the development post-construction. I therefore contend that, in the absence of suitable analysis and modelling to test these critical issues of safety, capacity and disruption to the existing residents of Hamsland and Challoners, followed, if necessary, by a response to any adverse findings arising from that analysis, there are very material transport reasons why the development should not be permitted.

4 Planning Statement

- 4.1 The Planning Statement draws on the Transport Statement and therefore carries its shortcomings, set out in Section 3 of this document, through into the Planning Statement. I do not intend to repeat at length here, anything that has been set out above. However, I will summarise, as a roadmap, those parts of the Planning Statement that I contend are therefore incorrect as they rely on inaccurate conclusions within the Transport Statement. These include, but may not be limited to:
- Paragraph 5.4, Table 1, DP21 – inadequate car parking; safety of pedestrians and car users not demonstrated.
 - 5.12 NPPF – Safety requirements set out in Paragraphs 108 and 109 not demonstrated to have been met.
 - 6.20 West Sussex Guidance for Parking in New Residential Developments – on-site parking provision is not in accordance with this guidance.
 - 6.21 – There will inevitably be many occasions when there is more than one additional vehicle every three minutes in the morning peak hour.
 - 6.22 – It is a glaring omission that there has been no demonstration that “the site can achieve safe and suitable means of access for all modes and the development will not materially impact on the operation of the local highway network.” As such, it is wholly incorrect to assert that “there are no transport reasons why the development should not be permitted.” In the absence of such a demonstration, in particular regarding the safe operation of the sole vehicular access along Hamsland to the proposed development, there remain very significant transport safety and impact reasons why the development should not be permitted.
- 4.2 In paragraphs 5.7 to 5.11 of the Planning Statement, it is argued that the proposals are in accordance with the emerging SADPD, are not premature and should therefore be given consent. The SADPD process is still in progress, and representations continue to be made by parties to that process that this site, SA29 in SADPD terms, is significantly flawed, in some cases using arguments about unsatisfactory and unsafe access in terms similar to those set out in this document. Until the SADPD process is complete and these issues have been resolved through due process, it would most certainly be premature to determine this application in favour of development.

5 Conclusion

- 5.1 There is an inconvenient truth that the sole vehicular access to the site along Hamsland is a significant, and potentially pivotal problem regarding the ability to deliver a safe means of access to this site. There has been too quick a move to rely on one set of helpful data, in the form of a parking survey carried out in mid-July 2019, and to seek to sweep this issue quietly under the carpet, despite numerous representations that the solutions deriving from this

data set failed a simple 'sniff test' – that this was wildly at odds with local experience. Despite the many representations that have been made to this effect, repeatedly and formally, most notably during MSDC's site allocation DPD process, there has been no attempt by the promoters to validate this data in this application in order to allay the concerns that have been expressed.

- 5.2 A simple parking survey carried out over three days in February 2021 has enabled quantification of the gulf between the summer 2019 data set and current data. Whilst COVID may affect this data to some extent during the day, it is unlikely to have a material effect on the overnight data, which according to WSCC's guidance on the subject is the data that matters, as this is the starting point for the morning peak hour.
- 5.3 This new parking survey, carried out anonymously and with no publicity to avoid any potential skewing of results, has generated quantified output which does pass the 'sniff test'. If the new parking survey had validated the July 2019 survey, this document would not have been necessary and would not have been written.
- 5.4 In summary, this simple survey over three days demonstrates that:
- The levels of parking stress along Hamsland are very high, particularly the eastern section in the vicinity of the proposed site access, such that it was found to be at or close to 100% occupancy every night. There is no ability to tolerate any overspill parking from the proposed development, which currently underprovides against WSCC's guidance.
 - The extent of parking on the western section of Hamsland creates single-track two-way operations over most of its length most of the time. The longest unbroken lengths of single-track operation with no passing places were observed at c.85 to 90m.
- 5.5 These long single-track sections, with forward visibility potentially severely restricted by parking on the inside of two bends, are already a significant safety concern and are already a source of significant disruption for the residents of Hamsland and Challoners.
- 5.6 Against this context, it is simply not credible to give consent to a development that, according to the applicant's own analysis, could add as much as 56% to the additional morning peak hour trips to this link. In absolute terms, these are not large numbers, but the extensive single-track operations on the western part of Hamsland make it an extraordinary section of road with capacity which is way below conventional norms.
- 5.7 The applicant has not demonstrated that the proposals meet the highest-level policy tests set out in the NPPF, namely compliance with the requirements set out in paragraph:

108 In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

-
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Nor has the applicant provided a compelling body of evidence that demonstrates conclusively that the proposals do not suffer one or both of the pitfalls set out in paragraph:

109 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 5.8 These requirements cascade down into Local Transport Plan and District Plan policy and guidance, and the proposals are found wanting there too for the same reasons.
- 5.9 Accordingly, in the absence of any credible evidence that the proposed development can deliver safe and suitable access to the site along Hamsland, I contend that they should not be granted permission.

Paul Fairbairn

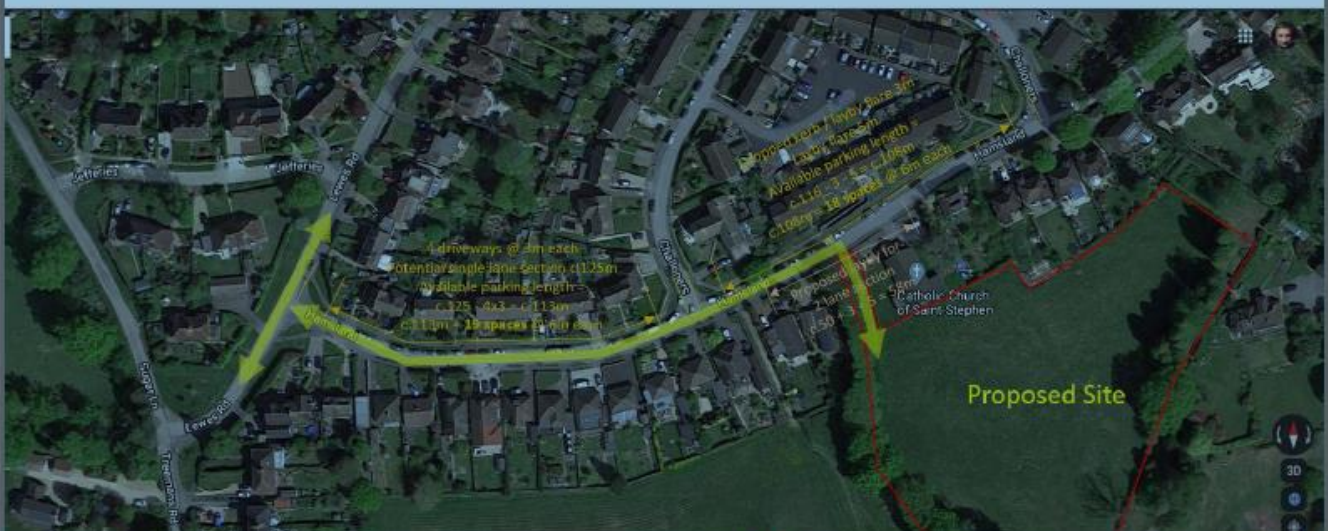
23rd February 2021

Hamsland Parking Survey

DM20/4692: Proposed Erection of 30 Dwellings on Land South of St Stephen's Church, Hamsland, Horsted Keynes

February 2021

Hamsland access route to proposed site



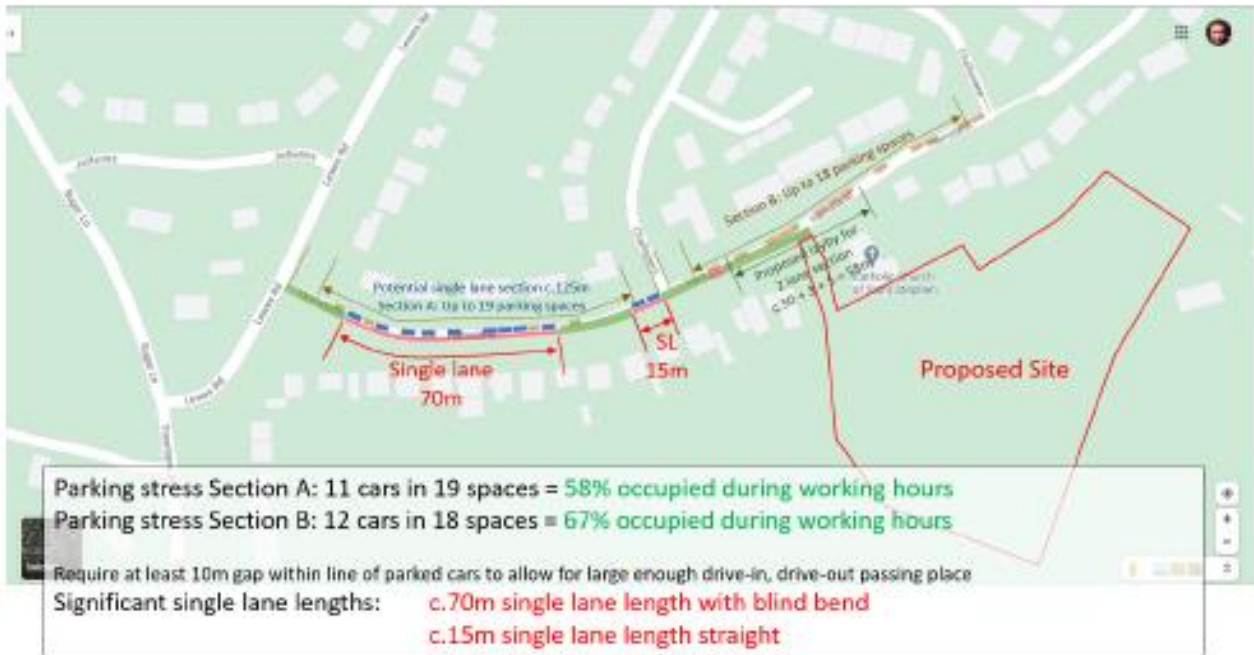
Extract from Highway Code: Rule 243

DO NOT stop or park:

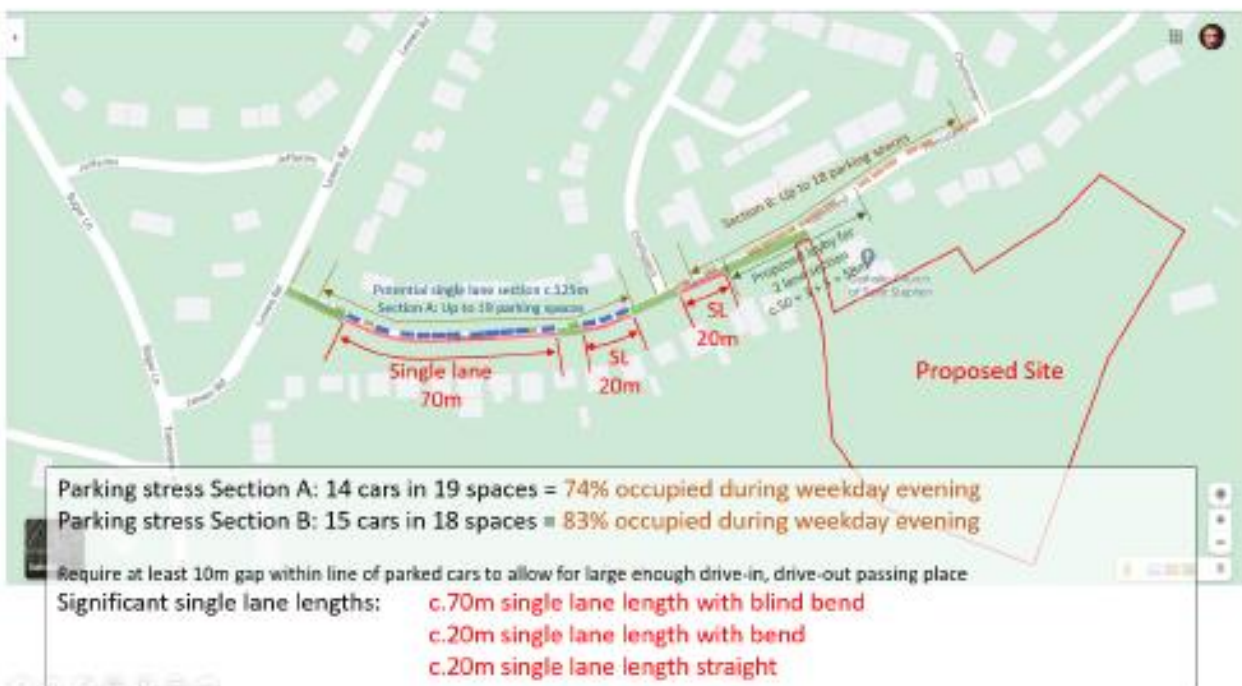
- anywhere you would prevent access for Emergency Services
- opposite or within 10 metres (32 feet) of a junction, except in an authorised parking space
- where the kerb has been lowered to help wheelchair users and powered mobility vehicles
- in front of an entrance to a property

Parallel parking: widespread guidance is to allow 6 linear metres length per space for reverse in, drive out parking. Permits up to **37 parking spaces** complying with Highway Code, **not the 42 parking spaces used in the parking stress survey**. **Passing places in single lane sections:** Look for at least 10 linear metres to permit drive in, drive out passing manoeuvre

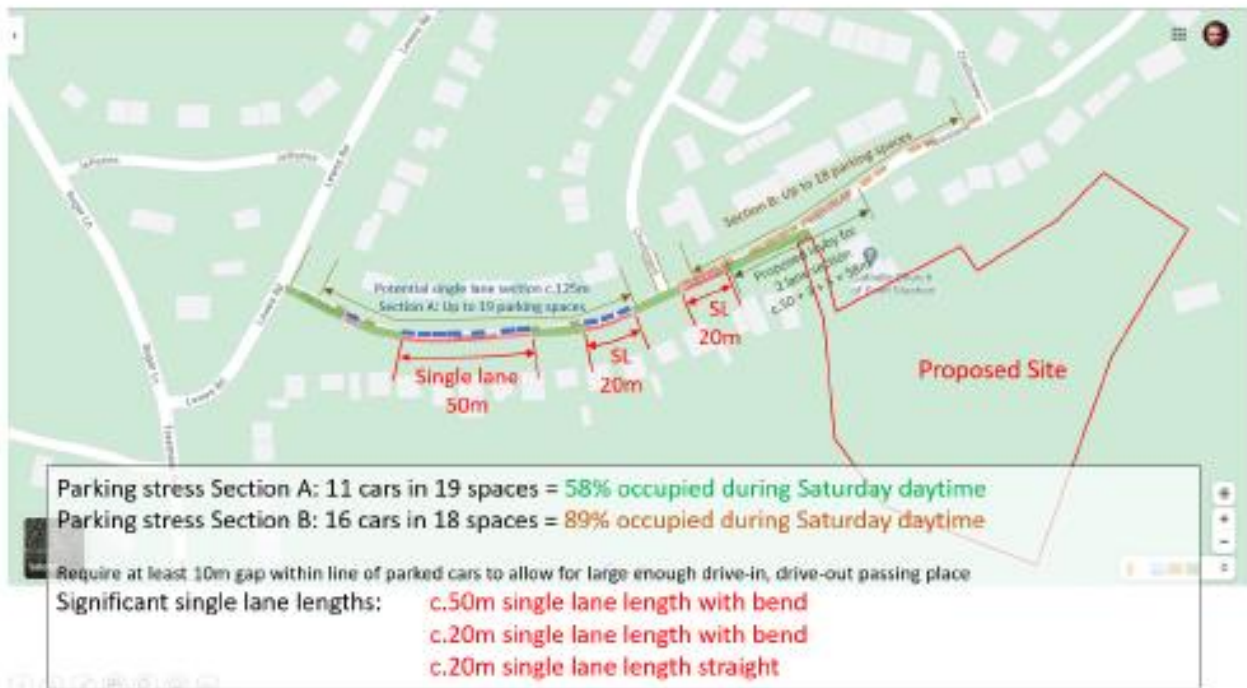
Parking survey: 09:15-09:30 Friday 5th February



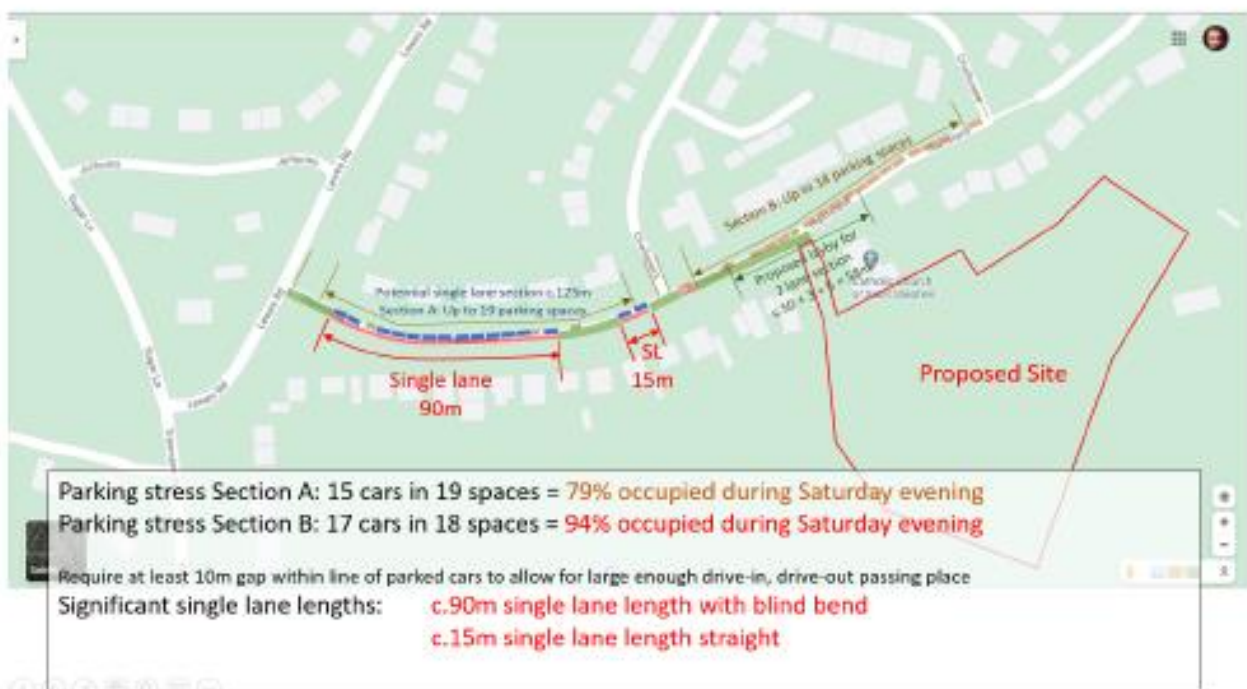
Parking survey: 18:15-18:30 Friday 5th February



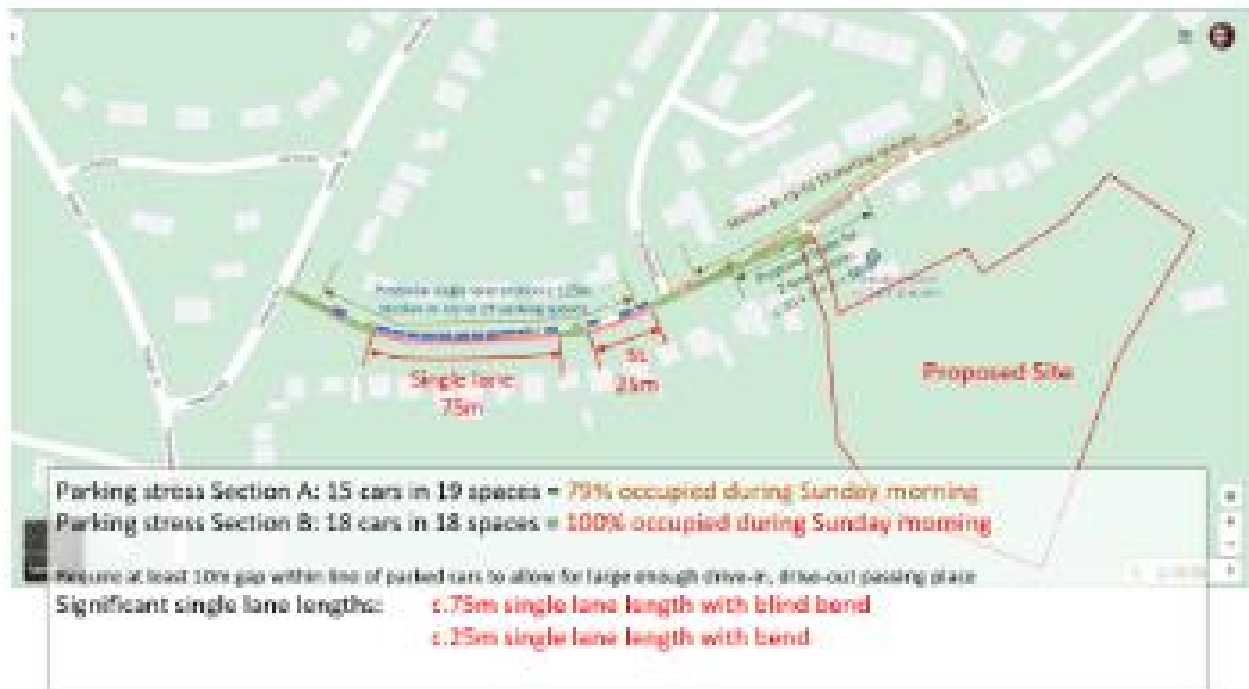
Parking survey: 09:30-09:45 Saturday 6th February



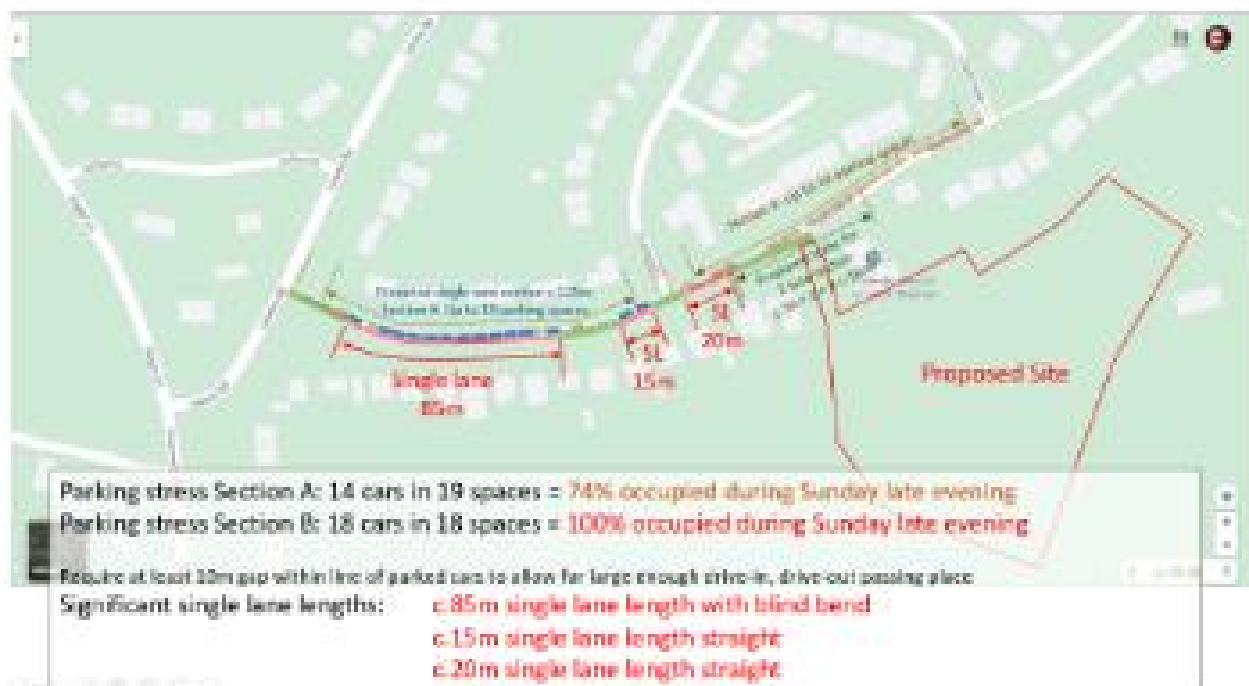
Parking survey: 20:30-20:45 Saturday 6th February



Parking survey: 09:30-09:45 Sunday 7th February



Parking survey: 21:45-22:00 Sunday 7th February



Issue 3 – Appendix 3b: Pelham Transport Consulting – Transport and Highways Review re application DM/20/4692 February 2021

5.2 Recommendation

5.2.1 To give a recommendation on the acceptability of the development this would need to conform with the relevant planning policies that are set out in Section 3 of this report.

5.2.2 The NPPF sets out the national planning system requirements and the relevant policies are included in Section 3.2 of this report. Paragraph 103 says that significant development should be focused in sustainable locations however opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As Horsted Keynes is in a rural location and has limited services it is in fact not sustainable for larger developments. The Site Allocations within the Mid Sussex District Plan have included sites within Horsted Keynes for development and these have been reviewed in the draft Neighbourhood Plan. The site is within close proximity to the limited services and there is a bus service for other services within Haywards Heath. The application does not encourage the use of sustainable transport through a travel plan or state investment in any significant improvements beyond the site boundary to reduce congestion and emissions, but the applicant would consider entering a S106 planning obligation. The development does provide the necessary car parking in accordance with the expected car ownership levels, but the associated trips would add to the existing congestion on the surrounding roads. Paragraph 84 of the NPPF states that it should be ensured that “development is sensitive to its surroundings, does not have unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)”. The site should be safe and suitable access to all users and the requirement that all highway safety issues have to be mitigated to an acceptable degree has not been met. Paragraph 109 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

5.2.3 The authority should consider the development impacts contrary to DP21:Transport and a reason for refusal that the scheme has an unacceptable impact on highway safety, fails to protect the safety of road users and pedestrians and has a negative impact to traffic congestion.

Matter 3 – Housing Delivery over the Plan Period

Issue 4 – Tree protection show-stopper (MIQ ref. 3.3 (vi) & (vii))

Points 1 and 2:

Policy SA29 is unsound and fails the 'Justified' test.

Point 3:

Section A of our R.19 representation identified the severe threat to the mature trees lining the narrow 7 m wide strip of access land from Hamsland to the site which lies between the closed St Stephen's Church site to the east and the Summerlea bungalow to the west owned by Mr. Paul Fairweather. Mr Fairweather has submitted a personal statement to the inspector on this issue, and he has also submitted a second statement demonstrating that the bushy hawthorn and holly trees preventing the required visibility splays to the west for vehicles exiting the site are not part of the SA29 site. We submit that both issues are show-stoppers and prevent any development of the site using the proposed access route.

On the first issue, our R.19 response referred to advice from an agent of the developer to Mr Fairweather that the mature trees lining the western side of the site access route were dead and would have to come down. This advice was given many months ago and has now been superseded by a recognition that the trees are not dead and that the developer must find a way to protect their root plates. A proposal has therefore been included in the application to provide if necessary a no-dig solution to building the access road onto the site to protect the roots which spread out to the east and, judging by the spread of the canopies, reach in some cases (e.g. the oak) or come near the church land boundary fence.

We have recently been advised by a retired Tree Officer who worked for a London Borough that BS 5837 (2012) governs what is permissible in the matter of root protection. The treetree.co.uk website advises that the BS does not protect Category R trees which are "deemed to be of no value within 10 years of the assessment", but otherwise trees are "deserving of the greatest protection and of retention unless there are reasons for the tree to be assigned to a lower category". The protection therefore certainly applies to the oak and presumably to the other trees under threat on the SA29 site.

The root protection area (RPA) is a circle with a radius calculated at 12 times the tree's trunk diameter measured 1.5 m above the ground. In the case of the 70 cm diameter of the oak's trunk, its RPA circle has a radius of 8.4 m., which is greater than the width of the site access land. As other trees lining the access route have similar diameters, this means that all of them are similarly protected and none of these mature trees can have their roots disturbed by work to construct the access road. If our advice is correct, then the developers do not, as they appear to believe, have the option of choosing any alternative road construction method to the no-dig one and potentially damaging root inspections are thus unnecessary. Whether the proposed no-dig solution is or is not in breach of BS 5837 (2012) requirements is a matter we are not in a position to judge but one that needs addressing by MSDC.

But a no-dig solution is plainly not possible for the trenches needed to bring mains water, electricity, and sewage services onto the site underneath the access road, and BS 5837 clearly rules this out. Presumably in the hope that no one would notice this show-stopper, the application is silent on the need for trenches which would clearly breach BS 5837 and seriously damage the roots.

The Tree Officer referred to above also advised that given the serious threat to the trees and the need for trenching to bring services onto the site in breach of BS 5837, the planning application should have been ruled out early on and added that developers hate the bridging no-dig method of road construction because it is so expensive. We would add that the site allocation also should never have got this far for the same reason.

As the photo below (which was included in our R.19 submission shows), these trees not only form the northernmost section of a visually magnificent tree boundary hedge to the west of the site (adjoining the Council Field discussed earlier) but are also meant to have a role in screening the site. They must be protected under MSDC and AONB policies.



Figure 1 - The landmark trees referred to are shown in background except for tree above and to left of white van

The DPD states:

Retain and enhance important landscape features, mature trees and hedgerows and incorporate these into the landscape structure and Green Infrastructure proposals for the development to limit impacts on the wider countryside.

The BS 5837 information was unknown to us at the time Mr Fairweather raised concerns about the safety of the trees in March 2021 with Mr Pantry, the developer's Senior Land Manager. He agreed to organise a root inspection survey for the trees lining the access route. Mr Fairweather and fellow residents naturally imagined that the inspection would examine the roots near the church boundary to identify their spread but were astonished to see the inspection team dig a narrow trench over a metre deep next to the boles of the trees. His subsequent request for an explanation from Mr Pantry produced a short reply which offered a statement about the conduct of tree inspections in general but gave no explanation of or justification for the highly invasive dig. He referred to an inspection report which he claimed had been or would soon be available to see on the council's website, but following my enquiry on 13 May the planning officer advised me the following day that it is not on their files and that he will ask the developer to supply it.

Residents have been left with the impression that the inspection near the base of the trees must have severed some roots and put others under severe stress. Given developers' reputation for felling trees which they have agreed to preserve and for viewing the relatively small fines as worth paying to gain unobstructed access to sites and avoid the heavy extra expense of no-dig solutions, residents rightly or wrongly suspect that this exercise was

meant to kill the roots under the access land so that when work began the developer could declare the roots dead anyway so that special road construction methods were therefore unnecessary.

Of course, residents' suspicions of criminal damage are just speculation until such time as the council investigates what damage if any the root inspection has done, but although both Mr Fairweather and Mr Pantry copied the planning officer processing the application in their email exchange, the council have taken no action to investigate what may prove to be deliberate criminal damage. The Tree Officer referred to above considered that digging a deep trench near the tree trunks was not only damaging but pointless, as it was already known that these roots were live, and was therefore wholly unjustifiable. If so, given the failure of the developers to explain or justify their actions, grounds for our suspicions of criminal damage are reasonable and inaction by the council could be deemed complicit.

The two email exchanges referred to above are reproduced at Appendix 4.

It has also been pointed out that the lower branches of these trees will prevent high-sided vehicles from entering the site either for the construction phase or residential purposes. The developers have agreed that the crowns will have to be raised substantially to allow such traffic – they have termed it tree management. However, the Green Party district councillor for our ward, Mr. Paul Brown, has told us that this too could damage the trees. MSDC's Tree Officer [REDACTED] has also pointed out that branch regrowth on the pruned trunks would need regular maintenance to keep the headroom clear. Mr Brown also expressed doubts that a cushioned no-dig approach to building the access road will be enough to prevent compaction of the root plates and constriction of water supply caused by the huge weight and vibration of large construction trucks bringing supplies to the site and removing tons of soil and rubble on a daily basis for several months.

Residents therefore have good reasons to believe that development of the site using this access route will sooner or later entail the loss of these much-loved trees and seriously damage the local landscape which has been enjoyed by the community for generations. Responsibility for this dire threat rests with the council's planning department who, had they been thorough in their assessment of the site in the first place, would have appraised themselves of all these facts before allocating the site. The particular identity of the developer who seeks to avail themselves of the site's allocation makes no difference to the inevitability of the loss of these trees if any development of the site goes ahead.

Point 4:

As this insurmountable problem is intrinsic to any development scheme to build an access road under which mains services trenches must run over the root plates of mature trees growing alongside the road, we can offer no suggestions to make the DPD document sound.

Point 5:

See point 5 under Issue 1.

[word count 1569]

Issue 4 – Appendix 4: E-mails – 1. Fairweather/Pantry; 2. Higham/Malcolm

Item 1: Re: Land to rear of St Stephens Church, Horsted Keynes - PA DM/20/4692

Paul Fairweather [REDACTED]

27 March 2021 at 13:30

To: Mark Pantry [REDACTED]
[REDACTED]

For the attention of Mark Pantry, Senior Land Manager, Rydon Homes Ltd.

Dear Mark,

Early this month you kindly let me know that there would be tree survey work being carried out on the trees next to my home during the week of the 8th, and a team duly arrived on the Friday and excavated at the base of some of them, digging narrow trenches over a metre deep. These they then back-filled and left the site the same day.

However, I have concerns about this activity.

As the feeding roots of any plant are predominately close to the surface with the deeper ones primarily anchoring it into the ground, by cutting metre-plus-deep trenches along the base of these trees, all growing at the narrowest point of the access strip where the road is planned to run, major stress - if not damage - will now have been caused. If the roots extending across the proposed roadway location have now all been severed at their source by this trenching, it argues that it would no longer be necessary to establish the extent of their 'run', which I thought was the significant reason behind having the situation physically examined by experts.

Giving credence to this assumption is the fact that no attempt by was made by the team to establish the extent of the root run of any of the trees, the importance of this being that those of the oak in particular are likely to reach at least as far from the bole as the top canopy. This, as you know, extends the entire width of the access between the trees and the boundary of the church land - and pointedly not having the land in that area examined needs some explanation.

The general health of these trees was never in doubt so please can you explain what was the purpose of cutting these trenches against their trunks and what has been learnt about the trees and the overall situation.

Best regards,

Paul Fairweather

From: Mark Pantry <mpantry@rydon.co.uk>

To: Paul Fairweather [REDACTED]

Cc: [REDACTED]

Sent: Monday, 29 March 2021, 09:03:00 BST

Subject: RE: Land to the rear of St Stephens Church, Horsted Keynes - Planning Application DM/20/4692

Dear Mr Fairweather,

Thank you for the email.

Works and surveys of this nature are carried out under legislation and approved guidance following established procedures. The survey work in this instance was supervised by a suitably qualified and experienced arborist.

His report will be sent into the council, if it hasn't already, for the planning officer and consultee to consider. I am fairly sure all items of this nature and relevance to the application will be logged onto the case file online, so a copy will be available to you there if you wish to have a read through the professional's findings and opinion.

Yours sincerely,

Mark Pantry, B.Sc.(Hons) MCIQB
Senior Land Manager

Item 2: Application DM/20/4692 - tree protection

Terry Higham [REDACTED]

13 May 2021 at 14:34

To: [REDACTED]

Cc: Paul Fairweather [REDACTED]

Dear Mr Stuart,

I am secretary to the Hamsland Action Group which opposes policy SA29 in MSDC's DPD, and have prepared a submission to the Inspector in preparation for the Examination of site allocations in MSDC's DPD on 10 June 2021.

A statement has been included in this dealing with our belief that, for the reasons we set out, Rydon's access plans cannot save the trees lining the access route onto the site from Hamsland, all of whose roots fall within the RPA specified by BS 5837 (2012). Not only will the no-dig access road proposal fail in the long term to preserve the trees but a no-dig solution is impossible for the service trenches bringing electricity, mains water, and sewage services onto the site which can only run under the access road.

I attach an email exchange between my neighbour Mr Paul Fairweather and Mark Pantry of Rydon Homes. In his reply Mr Pantry refers to a report on the inspection of the tree roots which occurred in March and instead of attaching it referred Mr Fairweather to the council's website saying he was sure it would be logged on the case file online and could be found there. I have searched through the DM/20/4692 application web pages but cannot find the report. Please can you give me a link to it or email me a copy.

Please note that this enquiry is urgent because our submission must be sent by 5 pm tomorrow and we wish to achieve as much accuracy in our submission to the hearing as possible.

Thank you for your assistance in this matter.

Terry Higham



Email exchange with Mark Pantry on tree protection.docx

16K

14 May 2021 at 10:05

To: Terry Higham [REDACTED]

Cc: Paul Fairweather [REDACTED]

Dear Mr Higham

Thank you for the email.

Please be advised that whilst the report referred to is not on the planning file, I have requested that it be submitted by Rydon to us for consideration. Once received, I will ensure it is online for residents to view as well.

Regards

Stuart

Matter 3 – Housing Delivery over the Plan Period

Issue 5 – Reasonable alternatives (MIQ ref. 3.3 (xi))

Points 1 and 2:

Policy SA29 is unsound and fails the 'Justified' test.

Point 3:

Section E of our R.19 response argued for alternative edge-of-village sites, specifically Jeffrey's Farm sites 68 and 69 which were assessed by our consultant as sustainable and deliverable when the landowners put them forward together with what is known as the front field opposite Jeffries in response to the first NDP land call in October 2014.

Site 68 has already been discussed under Issue 1, Point 4, and if access problems can be resolved to sustain its full assessed housing capacity, it could make a significant contribution to HK's housing target.

The case for site 69 was made in detail in section E of our R.19 response under the headings *Site 69 (Jeffrey's Farm Northern Fields)* and *Comparison of SHELAA Site 216/807 (termed site 807) and SHELAA Site 69*. This pointed out that Site 69 did not have a high impact rating in 2016 when the Troy Navigus consultant, Chris Bowden, having consulted with the AONB unit's Planning Adviser Claire Tester in October 2016, advised the PC in November to include a 42-home scheme covering both sites 68 and 69 in the NDP (see Appendix 5, items 1 and 2). What our R.19 response did not point out was that by the time the AONB unit gave the HKPC their advice on site 69 in May 2019 the site had been assessed as high impact because it was deemed "out of character with the settlement pattern of Horsted Keynes", a phrase referring to Objective 2 in the HW AONB Management Plan, namely "To protect the historic pattern and character of settlement". This objective was in force in 2016 when the AONB advice was received and has remain unchanged in the current Management Plan.

I wrote to Ms Tester to point out this apparent change of view and to explain in detail why I thought the high impact assessment was unmerited, but her reply declined to engage in any detailed discussion (see Appendix 5, item 3). Her main point was that the HW AONB's main objective was to protect "one of the most intact medieval landscape in northern Europe", an objective that was incompatible with "supporting the replication of more modern settlement patterns that have diluted that essentially medieval character."

This did not explain the change of view between 2016 and 2019 nor address my arguments. In my quest for answers, I raised an FOI request on 19 April 2021 which included the following extract:

In the AONB assessment of site 69 provided to the HKPC in May 2019 as an update of the October 2018 site assessments are the following entries:

Settlement <i>Historic settlement pattern and scale of development relative to settlement</i>	Jeffreys Farm is a historic farmstead separated from the village by Sugar Lane. The western side of the lane is characterised by dispersed settlement and development of this site would be uncharacteristic of this area.
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Conclusion	High impact on AONB as development would be out of character with the settlement pattern of Horsted Keynes.
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These observations are factually incorrect.

Firstly, JF is not “separated from the village by Sugar Lane”. As can be seen on Google Maps, the road running south from the junction with Keysford Lane is Sugar Lane until it becomes Treemans Road just after the access road to JF. On both western and eastern sides of Treemans Road up to the speed de-restriction sign marking the most southerly exit from the village are just over two dozen homes all abutting each other, eleven of which are on the western side. The northern end of this string of eleven homes abuts the JF access road. Despite the out-of-date built-up area boundary which excludes most homes on the east side of Treemans Road and all those on its western side, all their residents have Horsted Keynes postal addresses and undoubtedly belong to the modern HK settlement.

Secondly, JF’s eastern boundary is immediately opposite a small number of homes built beside the eastern side of Sugar Lane or with driveways onto it, plus junctions with the Boxes Lane cul-de-sac and Jeffries and some maisonettes at the north-western end of Lewes Road. It is contrived and misleading to describe a road as separating properties on one side of it from properties on the other. As the road is common to properties on both sides, it is as accurate to say that it joins them.

Thirdly, whilst it is correct to describe properties to the south of the speed de-restriction sign on Treemans Road as ‘dispersed settlement’ (i.e., where the properties are spread out over a wide area), it is incorrect to apply this term to the linear settlement of the houses abutting each other between the speed de-restriction sign and the existing access to JF. JF therefore directly abuts a non-dispersed part of the settlement.

It is also incorrect to say that the development of site 69 “would be out of character with the settlement pattern of Horsted Keynes.” The original dispersed settlement pattern was of farms and isolated homes scattered around the village hub which was centred on the village green. Over time, from the mid-20th century onwards, this pattern was swallowed up by developments of varying sizes and densities with the exception of the main recreation ground and the cricket pitch. All but one of these developments (Lucas) were to the south and west of the village green. The largest in terms of scale of development was Challoners with 73 homes starting about 200 metres from JF. A development on JF land would simply have continued this trend, but unlike other farmstead owners in the middle of the 20th century, JF’s owners did not make their land available until the NDP land call in October 2014. Their proposal was included in the draft neighbourhood plan in the spring of 2015 with the ‘Front Field’ alongside Sugar Lane being proposed as green space for recreation.

When the JF site promoters explained how the village had developed over the previous 75 years, the AONB unit replied on 8 October 2019 as follows:

The AONB assessment relates to historic settlement pattern, which is protected by objective S2 of the High Weald AONB Management Plan. Twentieth century additions to the village are not relevant to this assessment. Nonetheless, the development on the east side of Sugar Lane is of a denser, more consolidated character compared to the dispersed development beyond Sugar Lane.

This is not just incorrect but self-contradictory. It is incorrect because it uses the phrase “dispersed development beyond Sugar Lane” when, as noted above, there is linear development on the west side of Sugar Lane’s southern extension into the Treemans Road section of the modern settlement. It is also incorrect because, although objective S2 is headed ‘To protect the historic pattern and character of settlement’, its statements of rationale, indicators of success, and proposed actions do not define “historic settlement pattern” or exclude recent history. Objective S2 as worded therefore does not state that 20th century developments are “not relevant” to the site assessment process.

In addition, the response is self-contradictory because “the development on the east side of Sugar Lane” to which it refers is 20th century development which, according to the preceding sentence, is “not relevant to this assessment.” The word ‘nonetheless’ opening the third sentence signals that the force of the second sentence is about to be overridden.

At 17.19 on 14 May, I received an email attaching a reply from the HW AONB unit. I have annotated my comments in italics on the points made at Appendix 5, Item 4. As my comments show, this reply again evades the questions I asked and demonstrates the limitations of academic desk-top assessments which ignore detailed local knowledge.

The village as a whole lost its dispersed settlement character several decades ago and the high impact of modern settlement patterns on land to the south and west of the village centre has already happened. A modest development on site 69 can only make a marginal difference to this situation and does not merit a high impact AONB assessment.

Point 4:

With the AONB assessment highly controversial for the reasons stated and residents firmly of the view that the original consultant’s assessment in 2015 and again in 2016 that site 69 was suitable, available, and achievable, a view supported by MSDC’s SHELAA if its error on access is removed (see Dr Helena Griffiths submission to the examination hearing), then MSDC should place much more reliance on the views of local residents and allocate the whole site or at least the eastern half of it in the DPD.

Point 5:

Include both sites 68 and 69 in the DPD site allocations.

[word count 1471]

Issue 5 – Appendix 5: Evidence relating to AONB’s high impact assessment of site 69

Item 1: Background email exchange

[Note: Claire Tester’s letter to Chris Bowden which was basis for Item 2]

Claire Tester <Claire.Tester@highweald.org> Fri, 28 Oct 2016, 09:58
to chris, Sally Marsh, Jason Lavender, [REDACTED] ecostello

Dear Chris,

Thanks for your email which I will discuss with the AONB Co-Directors Sally Marsh and Jason Lavender.

I think it would help all of us if the agents for Jeffreys Farm could be persuaded to put forward some options for how the site could be developed. It is hard to recommend a particular density without this information, especially as the Parish Council is keen to see at least 50% of dwellings as 1-2 bedrooms. It would be possible to do a really high quality development on this site which combined small units built using local materials such as wood with generous amounts of open space. This would be far more sympathetic to the High Weald landscape and local needs than a lower density development of 5+ bedroom executive homes.

I think if they want to make the case that their site should be allocated then they need to do a lot more work on how this could conserve and enhance the AONB. We are happy to provide design advice to assist this process if that would be helpful.

Regards,

Claire Tester MRTPI
Planning Advisor
High Weald AONB Unit

[Note: The High Weald AONB Management Plan was in effect at this time but Claire’s letter makes no reference to a high impact rating on the two green field sites involved (comprising site 69) or to the proposed development scheme being out of character with HK’s pattern of development.]

Item 2: Consultant Chris Bowden’s statement in report of 10 November 2016 to HKPC:

The view from the High Weald AONB Unit on the principle of the expanded site was supportive and they made no objection to the inclusion of the site as a housing allocation. However, the detailed proposals from the site promoters have not been fully considered so at present the detail cannot be commented on. The AONB Unit was keen to stress that issues such as layout and the general density of the development would need to be reviewed by them to ensure that the integrity of the AONB is retained.

Item 3: Recent email correspondence

6th April 2021

Emailed to: Terry Higham at telsyl14@gmail.com

Dear Mr Higham,

Horsted Keynes NDP

I refer to your email of 26th March 2021 concerning my email of 28th October 2016.

Firstly, I would say that I do not intend to enter into a lengthy correspondence on this matter. The High Weald AONB Unit is a very small team and simply does not have the resources to do that. I appreciate that the issue of potential development sites in Horsted Keynes is one that is very important to local people, but the Unit is simply an advisory body, the decision-makers here are Mid Sussex District Council, Horsted Keynes Parish Council and the Planning Inspectorate, and I suggest that you address your concerns to them.

My email of 28th October 2016 was provided in good faith to try and assist the Parish Council and its consultant in considering the Jeffreys Farm site. It suggests that the site promoters need to provide more information and, whilst it does accept that the site could take some development, it does not endorse a 42 home scheme on the site.

The Management Plan objective S2 "To protect the historic pattern and character of settlement" needs to be read in the context of the rest of the Management Plan and its evidence base. Like all the objectives it seeks to support the purpose of the designation which is to conserve and enhance the natural beauty of the AONB, which is recognised as one of the most intact medieval landscapes in Northern Europe. Clearly then this objective should not be interpreted as supporting the replication of more modern settlement patterns that have diluted that essentially medieval character.

I note your views on the relative merits of the site at Hamsland, but this is a matter for determination by Mid Sussex District Council (in the case of the current planning application) and the Planning Inspectorate (in the case of the Site Allocations DPD).

Yours sincerely,

Claire Tester MRTPI

Planning Advisor, High Weald AONB Unit

[Note: In reply to my further email on 7 April, Ms Tester sent the following email]

Claire Tester <Claire.Tester@highweald.org>
To: Terry Higham <telsyl14@gmail.com>

15 April 2021 at 08:24

Dear Terry,

As previously indicated I have no intention of continuing the debate about the merits of our previous advice on these sites. It is just advice and the District Council is entitled to make decisions that do not follow it, as indeed has happened elsewhere (the 600 home development at Pease Pottage being a good example).

...

Regards

Claire Tester MRTPI
Planning Advisor, High Weald AONB Unit

Item 4: High Weald AONB response to FOI request

In response to my specific queries, the Unit replied at 5.19 pm on 14 May and made the following points which I have annotated in italics with my own comments:

- The postal address of properties is not relevant to whether they are considered part of the village in historic settlement terms. *Comment: What I said was that these residents were part of the “modern HK settlement”. Postal addresses aside, even if HK villagers are aware of where the out-of-date BUAB runs they in no way distinguish between those living inside it from those living outside it. These Treemans Road residents live in homes to the north of the speed de-restriction sign that are contiguous to homes in Lewes Road and undoubtedly belong to the modern settlement, which was my main point.*
- Whether development on the western side of Sugar Lane / Treemans Road is dispersed or consolidated is clearly a matter of degree. It is agreed that it is not as dispersed as development further south on this road, but neither is it as consolidated as development to the east. *Comment: Online research shows that linear development is not part of the definition of ‘dispersed development’, so this response judges the issue. It is true that neither is it ‘consolidated development’, but if it is legitimate to distinguish development on one side of a road from development on the other then this principle must be applied consistently. Development on the south side of Hamsland is linear, and its eastern section where access to SA29 lies comprises just 8 homes and a church. It is certainly not consolidated, but by contrast the development on the northern side is. But SA29 has not been assessed as “out-of-character etc”. Nor has SA28 which not only has a small amount of linear development on the north side of Birch Grove Road including Lucas Farm itself but also a 12-unit cul-de-sac. However, there is only a small amount of linear development on its southern side beside and behind which lies SA28. So SA28 and SA29 are inconsistently allowed to have consolidated development opposite them and linear development alongside them but Jeffrey’s Farm is not. Admittedly, site 69 is separated from the line of homes to the south of Jeffrey’s Farm by the farm’s front field which is covered by a restrictive covenant, but that could as previously planned be developed as a recreational green space with a pavilion linking site 69 to the homes to the south.*
- It is agreed that much of Horsted Keynes was developed on previously greenfield sites, but this was predominantly common land and the medieval farmsteads such as Jeffrey’s Farm are still legible as separate settlement types apart from the village. *Comment: A fellow resident has pointed out that the AONB unit is factually wrong as the previously greenfield sites were not on common land at all (see their comments and 1842 Tythe Map below). On the second point, we think ‘legibility’, by which we understand landscape features which act as signs enabling researchers to read settlement and land use patterns from the past, is an academic point in relation to site 69 which is a flat and featureless part of a modern field system. No legibility would be lost by its development. However, we understand that the site promoters are willing to have a farmstead model for any development which would meet the concern that the high level of screening of the site by trees and hedges could be lost at some future date exposing an unsuitable modern estate on a site that was once part of a medieval farmstead.*
- As previously advised, the Management Plan objective S2 “To protect the historic pattern and character of settlement” needs to be read in the context of the rest of the Management Plan and its evidence base. Like all the objectives it seeks to support the purpose of the designation which is to conserve and enhance the natural beauty of the AONB, which is recognised as one of the most intact medieval landscapes in Northern Europe. Clearly then this objective should not be interpreted as supporting the replication of more modern settlement patterns that have diluted that essentially medieval character. *This in no way answers my FOI request because it simply reproduces a paragraph from Ms Tester’s reply dated 6 April 2021 which my FOI request stated*

raised more questions than it answered. This is because site SA28 had a high impact rating designed to conserve its medieval character and deter what Ms Tester describes as “the replication of more modern settlement patterns that have diluted the essentially medieval character”. But bizarrely, allowing such replication on the northern half of it (which triggers the very threat the rating was supposed to avert and also brings the new houses very close to a listed building, Lucas Farm) somehow reduces the impact to moderate. And yet a featureless site in a modern field system which by definition has no impact on the medieval landscape is assessed as high impact on that very landscape. To members of the public this seems not only bizarre but perverse.

- The High Weald AONB Unit maintains its view that the development of site 69 for approximately 22 dwellings would have a high impact on the AONB as development would be out of character with the settlement pattern of Horsted Keynes. *Comment: The new NDP steering group will review the number of units. As the map demonstrates, the actual pattern of development since the middle of the 20th century swallowed up the various farms which, in the absence of contrary evidence, may be presumed to be as old as Jeffrey’s Farm, and consequently the village lost its dispersed settlement character.*

1842 Tythe map



Resident’s comment: “I attach the Tythe map from 1842. Clear field systems are seen across most of the now developed village area. These were clearly associated with the Farms that have been amalgamated in to the Horsted Keynes conurbation. Not common land! Boxes Farm (and the farmhouse of C15 timber-framed building) fields occupied what is now Boxes [Lane] and Jefferies. Rixons [Close] and Rixons Orchard clearly were associated with Rixons House (on the green - Restored C17 house). Lucas and the houses behind Ashgrove stores belonged to Lucas Farm (C18th). Then the land that was the Rec, Challoners [incl. Home Farm Court] and Hamsland [northern side] was all associated with Home Farm. As you know Leighton Villas and Cheeleys were associated with Leighton House - but given that is 'recent' this might all have been associated with the house called Strouds (16th C).”

[Note: The map does not show that the land south of Hamsland belonged to Hamsland Farm. Only Jeffries Farm held out against this southwestern pattern of development.]