

Our Ref: TFN/emn/18/19

Yr Ref:

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Chartered Town Planning  
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**BY E-MAIL ONLY**

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Dear Charlotte

**Re: Mid Sussex District Council Site Allocations DPD Examination**

I refer to your e-mail of 26<sup>th</sup> August 2021 and to your update on the current state of play with respect to the Mid Sussex Site Allocations DPD Examination in Public, along with the list of action points set out in Document ID-05. I note that the Inspector is requesting any responses from interested parties to a number of matters arising from the Examination in Public.

The representations raised in this e-mailed correspondence are made on behalf of my clients, Dukesfield Properties Ltd, the freehold owners of the Ivy Dene Industrial Estate, Ivy Dene Lane, Ashurst Wood, West Sussex RH10 3TN, and are directed solely at AP14 and the Local Plan Inspector's Suggested Main Modification where it relates to Matter 5.3: Policy SA34 Protection of Existing Employment Sites.

The reasoning provided by the LPA for including Policy SA34 into the Site Allocations DPD, a daughter document to the adopted Mid Sussex District Plan 2014-2031, is that the adopted District Plan does not include a list of those existing employment sites which are currently in employment generating use which it wishes to protect. It is my clients' considered opinion that the reason for the introduction of Policy SA34 into the Site Allocations DPD is simply not necessary. This is because Policy DP1 of the adopted District Plan performs the function required by Mid Sussex District Council of protecting allocated and existing employment land, with the onus placed on an applicant/ developer to demonstrate that the loss of employment provision is outweighed by the benefits of the proposed alternative use. That is a sufficient safeguard to ensure that the underlying requirement sought by the LPA in respect of Policy SA34 is achieved.

More important, and as stated at the virtual inquiry concerning Matter 5 paragraph 5.3, a combination of Policy DP1 and SA34 does not, as the Council indicate in Document MSDC-04 dated 12 July 2021, provide "*an element of clarity to Policy DP1 in relation to its reference to "existing employment land and premises"*". On the contrary and as elaborated



upon in the following paragraphs, it poses potential problems with respect to future employment policy interpretation.

Policy DP1 of the adopted District Plan states that effective use of employment land and premises will be made by ... *“protecting allocated and existing employment land and premises (including tourism) unless it can be demonstrated that there is no reasonable prospect of its use or continued use for employment, or it can be demonstrated that the loss of employment provision is outweighed by the benefits, or relative need for the proposed alternative use.”* (my emphasis)

Policy DP1 taken from the adopted District Plan has to be examined in the light of the contents of the first paragraph of proposed Policy SA34, which it is contended is more restrictive, viz: *“Proposals on existing employment sites that would involve the loss of employment land or premises will only be supported where it can be clearly demonstrated by the applicant that the site/premises is no longer needed and/or viable for employment use.”* (my emphasis)

It can be seen from the previous two paragraphs that Policy DP1 is concerned with demonstrating that the loss of employment provision is outweighed by the benefits or relative need of the proposed alternative use. The need to demonstrate that the loss of employment provision is outweighed by the benefits of a proposed alternative use, a matter required by Policy DP1, is a materially different issue from having to *“clearly demonstrate that the site/premises is no longer needed and/or viable for employment use.”* (my emphasis)

My clients consider that identifying a number of employment sites in Appendix A to Policy SA34 simply on the basis of their existing use, without carrying out any analysis of the same sites to properly assess the contribution they may make to future employment provision in the District, and with no discussions having taken place with the owners of the respective sites, is an unsound basis in which to promote a new employment policy. This approach is likely to sterilise land, and fails to pay due and proper regard to the underlying objective behind paragraph 123 of the NPPF 2021, namely *“Local Planning Authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.”*

The future employment needs of the District cannot be divorced from the underlying objective of the Mid Sussex Economic Development Strategy 2018-2031, namely to create *“a need for more and better quality business premises”* so as to meet the desire that *“Mid Sussex fulfils its full potential as a vibrant and attractive place for business and people to grow and succeed.”* It is upon this basis that future employment provision in the District should, in my clients' respectful opinion have been examined.

This is irrespective of the fact that Policy SA34 in allowing for the expansion and intensification of existing employment sites, both within the built-up areas and outside, (subject to meeting certain criteria), allows for increases in employment provision into the future.

### **The Inspector's Suggested Main Modification to Policy SA34**



The Inspector in ID-07 dated 21<sup>st</sup> June 2021 sets out a Suggested Main Modification to Policy SA34 which is supported by my clients, insofar as it recognises that there can be benefits to redeveloping an employment site for an alternative use which can lead to wide ranging environmental, social and economic benefits, and a better use of previously developed land; a matter which has not been addressed by the Local Planning Authority in the wording of Policy SA34.

In this way, the Suggested Main Modification provides the required flexibility or balance missing from Policy SA34, allowing for a comprehensive examination of those various factors contributing to why a site may be more appropriately used for an alternative purpose. The approach taken in formulating the Suggested Main Modification provides the necessary “*bridge*” between Policies DP1 and SA34, assisting the interpretation of employment policy in the development plan, by providing the criteria which need to be addressed by prospective applicants when contemplating non-employment uses on existing employment sites. It does so without diminishing the underlying and fundamental objective which lies behind the need to ensure that there is a satisfactory provision of employment land and premises into the future.

In this way, and if incorporated as part of the policy, and not part of the reasoned justification<sup>1</sup>, the Suggested Main Modification will avoid potential problems with respect to future employment policy interpretation, where at present this is not the case.

I should be grateful if you could place this e-mailed correspondence before the Local Plan Inspector.

Yours sincerely

Tim North

T.F. North

Cc: Dukesfield Properties Ltd

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<sup>1</sup> *R (on the application of Cherkley Campaign Ltd) v Mole Valley District Council and Longshot Cherkely Court Ltd (2014) EWCA Civ 567* [para 16]