

## **Site Allocations DPD**

**MSDC-20:** Statement of Common Ground in relation to SA12: Land south of 96 Folders Lane and SA13: Land south of Folders Lane and East of Keymer Road - Relationship with the South Downs National Park

12th October 2021

# Relationship between proposed allocations ‘SA12: Land south of 96 Folders Lane’ & ‘SA13: Land south of Folders Lane and East of Keymer Road’ and the South Downs National Park

## 1. Introduction

- 1.1. This Statement of Common Ground (incorporating issues that remain unresolved) has been prepared following the hearing session on Thursday 3<sup>rd</sup> June in relation to proposed allocations **SA12: Land south of 96 Folders Lane** and **SA13: Land south of Folders Lane and East of Keymer Road** for the emerging Site Allocations Development Plan Document (DPD).
- 1.2. It relates solely to the relationship between the two sites and the South Downs National Park (SDNP), further to statements made to the hearings by the South Downs National Park Authority (SDNPA).
- 1.3. Whilst this Statement of Common Ground includes details of all engagement between MSDC and SDNPA related to both sites, it has a focus on one of the sites, SA13 given the concerns expressed by SDNPA at the hearings to this site in particular. As such it has been prepared and agreed by the following parties:
  - Mid Sussex District Council (MSDC)
  - South Downs National Park Authority (SDNPA)
  - Thakeham Homes (Promoter of SA13)
  - Persimmon Homes (Promoter of SA13)

## 2. Context – Hearings

- 2.1. The Site Allocations DPD hearings took place between 1st – 16<sup>th</sup> June 2021. The two sites, SA12 and SA13 were discussed on 3<sup>rd</sup> June.
- 2.2. Ahead of the hearings, SDNPA submitted a hearing statement (M4-777). The statement confirms that the SDNPA has concerns about SA12 and SA13 as they are within the setting of the South Downs National Park, with the focus of their concern on SA13. SDNPA state that the site is part of a larger landscape of which its historic character is shared with parts of the SDNP and the coherence in historic character suggests the site contributes positively to the setting of the SDNP.
- 2.3. SDNPA stated that they acknowledge that both sites SA12 and SA13 are able to accommodate some development however, based on the evidence, they have concerns that the scale of SA13 is too great and would be willing to work with MSDC and the site promoter to agree a suitable yield. This position was reiterated at the hearing session itself. Whilst the SDNPA did not present any new evidence, officers did raise concerns about the landscape evidence presented in support of the allocation at the hearings. Discussions during the hearing confirmed SDNPA have come to a similar conclusion as the findings of a study commissioned by MSDC to support its District Plan (known as the ‘LUC Report’<sup>1</sup>) – this piece of the evidence base is set out in more detail in Section 5. The SDNPA have referenced the LUC Report in presenting

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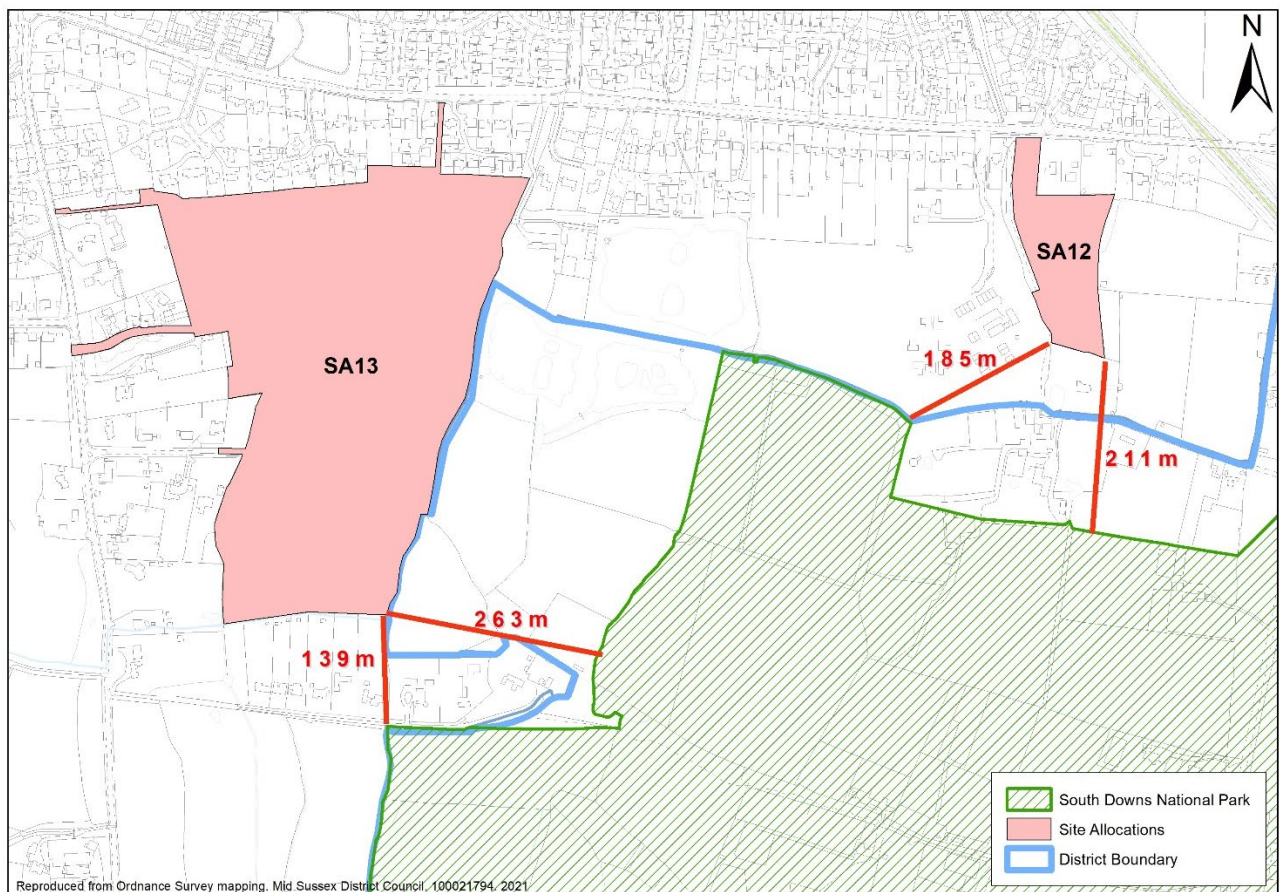
<sup>1</sup> “Mid Sussex District SHLAA: Review of Landscape and Visual Aspects of Site Suitability” (LUC, January 2015) evidence base library document – [Other Evidence Documents: O22](#).

its findings to inform their view on potential capacity for SA13 and it is the view of the SDNPA that the findings of the LUC report should be the starting point (in terms of potential yield)

- 2.4. Neither site is within the SDNP. Both sites are within the setting of the SDNP. The NPPF paragraph 176 states that: *“The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”*
- 2.5. All relevant authorities, including MSDC, are required to have regard to the purposes of the SDNP as set out in Section 62 of the Environment Act 1995. The SDNPA draw attention to the first purpose: *“to conserve and enhance the natural beauty, wildlife and cultural heritage of the area”*.
- 2.6. As a result of the discussion held at the hearing, and subsequent engagement since, it was agreed to submit a Statement of Common Ground to address the parties' position on the outstanding concerns raised by SDNPA.

### 3. Factual Position – Sites

- 3.1. For completeness, consistency, and further context this Statement will include reference to work and discussions in relation to both the proposed sites SA12 and SA13 as both were raised by the SDNPA as being within the setting of the SDNP. The purpose of this Statement however is to identify common ground between the relevant Parties regarding SA13 only as this is the focus of concern for the SDNPA.
- 3.2. Sites SA12 and SA13 are situated to the south of Folders Lane on the southern boundary of Burgess Hill. Both sites are located outside of the built-up area of Burgess Hill so are therefore within an area currently covered by District Plan policy DP12: Protection and Enhancement of the Countryside. This designation applies to the whole district outside designated built-up areas, 18 of the 22 housing sites within the Sites DPD are also within this designation. The Sites DPD indicates (on the draft Policies Map and maps accompanying each policy) that the built-up area boundary will be amended upon adoption which would bring these sites within in, and no longer subject to DP12.



- 3.3. Neither site is within the SDNP. In relation to proximity:

| Site   | Distance<br>(at closest<br>point) |
|--|-----------------------------------|
| SA12: Land south of 96 Folders Lane                          | 185 metres                        |
| SA13: Land south of Folders Lane and<br>East of Keymer Road. | 139 metres                        |

3.4. The submitted Sites DPD proposes the following:

| Site   | Gross Site Area (ha) | Yield | Average Density | Indicative Phasing |
|--|----------------------|-------|-----------------|--------------------|
| <b>SA12: Land south of 96 Folders Lane</b>                       | 1.72                 | 40    | 23dph           | Years 1 to 5       |
| <b>SA13: Land south of Folders Lane and East of Keymer Road.</b> | 15.2                 | 300   | 19.7dph         | Years 1 to 5       |

3.5. Each site is accompanied by a series of policy requirements which will need to be taken into account during the determination of planning applications. These are set out on a site-by-site basis within the submitted Site Allocations DPD.

3.6. The table below shows the policy requirements that were included within the submission Site Allocations DPD for SA12 and SA13 that relate most closely to the site's position in the setting of the SDNP. Section 4 of this SoCG explains the iterations that took place to arrive at these submission policies.

| Site                                       | Policy Requirements   |
|--|---|
| <b>SA12: Land south of 96 Folders Lane</b> | <ul style="list-style-type: none"> <li>• To deliver a sympathetic and well integrated extension to Burgess Hill, informed by a landscape led masterplan, which respects the setting of the South Downs National Park, providing attractive pedestrian and cycle routes throughout the site so residents can enjoy convenient access existing services and facilities.</li> <li>• Undertake a Landscape and Visual Impact Assessment (LVIA) to inform the site layout, capacity and mitigation requirements, in order to minimise impacts on the wider countryside and the setting of and any potential views from the South Downs National Park to the south.</li> <li>• Any external lighting scheme shall be designed to minimise light spillage to protect dark night skies.</li> <li>• Retain and substantially enhance existing landscape structure; safeguarding existing trees covered by Tree Preservation Orders along the north boundary of the site and, integrating existing hedge and tree boundaries, with new native tree planting throughout the layout, to contain new housing and limit the impact on the wider landscape.</li> <li>• Undertake an holistic approach to Green Infrastructure and corridors, including; retention of existing landscape features and enhancement with new native species-rich hedgerows, native tree planting and wildflower seeding in areas of open space to provide a matrix of habitats with connections to the surrounding landscape.</li> <li>• Conserve and enhance areas of wildlife value and ensure there is a net gain to biodiversity overall. Avoid any loss of biodiversity through ecological protection and enhancement, and good design. Where it is not possible, mitigate and as a last resort, compensate for any loss.</li> <li>• Incorporate SuDS within the Green Infrastructure to improve biodiversity and water quality</li> </ul> |

**SA13: Land south of Folders Lane and East of Keymer Road.**

- To deliver a sympathetic and well integrated extension to Burgess Hill, informed by a landscape led masterplan, which respects the setting of the South Downs National Park, creating a focal point with a central open space incorporating attractive and convenient pedestrian and cycle routes throughout the site providing good connections to local services and facilities.
- Development shall be sympathetic to the transitional, urban edge, semi-urban to semi-rural character of Keymer Road/Folders Lane whilst protecting the landscape setting.
- Orientate development to have a positive edge to proposed open space and to the countryside by fronting onto retained field boundaries/ mature trees. Undertake a Landscape and Visual Impact Assessment (LVIA) to inform the site layout, capacity and mitigation requirements, in order to minimise impacts on the most visible parts of the site on the wider countryside and the setting of and any potential views from the South Downs National Park to the south.
- Any external lighting scheme shall be designed to minimise light spillage to protect dark night skies.
- Ensure the design and layout of the development works with the natural grain of the landscape following the slope contours of the site, minimising cut and fill.
- Retain and substantially enhance existing landscape structure, particularly along the southern and eastern boundary. Safeguard mature trees and landscaping along the boundaries, within the site and along historic field boundaries, incorporating them into the landscape structure and layout of the development with new native tree planting throughout the layout, to contain new housing and limit the impact on the wider landscape.
- Protect the character and amenity of the existing PRoW to the south of the site.
- Provide appropriate layout, design and landscaping, particularly within the north west corner of the site, to protect the rural setting of the Grade II Listed High Chimneys, ensuring development is not dominant in views from the building or its setting and by reinforcing the tree belt on the western boundary.
- Undertake an holistic approach to Green Infrastructure and corridors, including; retention of existing landscape features and enhancement with new native species-rich hedgerows, native tree planting and wildflower seeding in areas of open space to provide a matrix of habitats with links to the surrounding landscape.
- Provide a Habitat Management Plan detailing conservation and enhancement of all areas of Habitat of Principle Importance (HPI) (woodland, hedgerows and standing water); this shall include retention of a minimum of a 5 metre buffer around the HPI.

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• Conserve and enhance areas of wildlife value and ensure there is a net gain to biodiversity overall. Avoid any loss of biodiversity through ecological protection and enhancement, and good design. Where it is not possible, mitigate and as a last resort, compensate for any loss.</li> <li>• Incorporate SuDS within the Green Infrastructure to improve biodiversity and water quality</li> <li>• Informed by a Flood Risk Assessment (FRA), measures are required to address flood risk associated with the site and in particular the watercourse which runs across the site and down the western boundary. Avoid developing areas adjacent to the existing watercourse and those at risk of surface water flooding.</li> </ul> |
|--|---|



## 4. Factual Position – Engagement between MSDC and SDNPA

- 4.1. Local Planning Authorities are bound by the statutory Duty to Co-Operate. Mid Sussex District Council and South Downs National Park Authority are neighbouring planning authorities to which this duty applies.
- 4.2. In accordance with NPPF paragraph 27, a Statement of Common Ground [DC11] was prepared and agreed by the two parties in July 2020. The SoCG demonstrates effective and on-going joint working, documents cross-boundary matters and progress in addressing these.
- 4.3. In addition to informal dialogue between the two parties, the South Downs National Park Authority is a 'specific consultation body' as defined in the Town and Country Planning (Local Planning) Regulations 2012 therefore was invited to make comments during the formal consultation periods (Regulation 18 and Regulation 19).

### Regulation 18 – SDNPA Consultation Response

- 4.4. Regulation 18 consultation was held between 9<sup>th</sup> October and 20<sup>th</sup> November 2019. In response to the consultation the South Downs National Park Authority made the following points related to SA12 and SA13:
  - Objective for the development to be informed by a landscape-led masterplan which respects the setting of the SDNP is noted and recognised
  - Landscape evidence is required to inform site capacity which responds to the character and sensitivities; requirement for LVIA to inform capacity and mitigation in order to minimise impacts on wider countryside and potential views is recognised and welcomed
  - Setting, tranquillity, dark night skies are important (i.e. not just views)
  - Concern re potential increased traffic through Ditchling
  - **Re SA12:**
    - concern it would erode the buffer between Burgess Hill and SDNP
    - opportunity to secure footpath access
  - **Re SA13:**
    - concern it would erode the rural buffer between Burgess Hill and SDNP
    - character is shared with the SDNP and contributes to its setting – evidence is required to inform the capacity of the site which would reflect its role as part of the setting and sensitivities of the site
    - Multiple hedgerows, trees, geology/landform are relatively undisturbed
    - Site is highly sensitive to change, high ecological value, southern part of the site is likely to be the most sensitive
    - May be appropriate to move the proposed open space to the southern part of the site to acknowledge its greater sensitivity

### Regulation 18 – How MSDC Addressed SDNPA Comments

- **SA12**



- LVIA sought from site promoter December 2019 in direct response to SDNPA concern – to inform the allocation and proposed policy wording
- Revised (from the planning application version) LVIA submitted to MSDC December 2019
- Sent to SDNP for comment February – SDNPA response received April 2020
- Follow up from promoter April 2020 – SDNPA response received June 2020
- **SA13**
  - LVIA sought from site promoter December 2019 in direct response to SDNP concern – to inform the allocation and proposed policy wording
  - LVA submitted to MSDC January 2020
  - Sent to SDNP for comment February 2020 – SDNP response received April 2020
  - Amended LVA sent May 2020 – SDNP response June 2020
- **SA12 & SA13**
  - Follow up meeting held later in June 2020 and policy amendments discussed
  - Amended SoCG agreed August with agreement to work on understanding and advising the SDNPA on potential impacts on tranquillity
  - Response regarding tranquillity sent by MSDC following Regulation 19 consultation in December 2020 – no response received from SDNP

#### Amendments to Regulation 18 draft Policy Wording

4.5. In response to the above, the following were discussed during a meeting in June 2020 between MSDC and the SDNPA and published in the Pre-Submission Plan (amendments underlined in red):

| Site   | Policy Requirements   |
|--|---|
| <b>SA12: Land south of 96 Folders Lane</b>                       | <ul style="list-style-type: none"> <li>• Undertake a Landscape and Visual Impact Assessment (LVIA) to inform the site layout, capacity and mitigation requirements, in order to minimise impacts on the wider countryside and <u>the setting of and</u> any potential views from the South Downs National Park to the south.</li> <li>• <u>Any external lighting scheme shall be designed to minimise light spillage to protect dark night skies.</u></li> </ul>  |
| <b>SA13: Land south of Folders Lane and East of Keymer Road.</b> | <ul style="list-style-type: none"> <li>• Development shall be sympathetic to <u>the transitional urban edge</u>, the semi-rural character of Keymer Road/Folders Lane whilst protecting the landscape setting.</li> <li>• Establish a strong sense of place through the creation of a main central open space to provide a focus for the development with higher density housing in close proximity to benefit from the provision <u>with lower density development towards the southern end of the site to reflect the existing settlement pattern.</u></li> <li>• Undertake a Landscape and Visual Impact Assessment (LVIA) to inform the site layout, capacity and mitigation requirements, in order to minimise impact in the most visible parts of the site on the wider countryside and <u>the setting of and</u> any potential views from the South</li> </ul> |

|                      |   |
|----------------------|---|
|                      | <p>Downs National Park to the south. <u>Any external lighting scheme shall be designed to minimise light spillage to protect dark night skies.</u></p> <ul style="list-style-type: none"> <li>• <u>Ensure the design and layout of the development works with the natural grain of the landscape following the slope contours of the site, minimising cut and fill.</u></li> <li>• Retain and <u>substantially</u> enhance existing <u>landscape structure, particularly along the southern and eastern boundary. Safeguard</u> mature trees and landscaping along the boundaries, <del>and</del> within the site <u>and along historic field boundaries</u>, incorporating them into the landscape structure and layout of the development- <u>with new native tree planting throughout the layout, to contain new housing and limit the impact on the wider landscape.</u></li> </ul> |
| <b>Policy SA GEN</b> | <ul style="list-style-type: none"> <li>• <u>Where development is required to adopt a landscape led approach; this includes respecting the local character of the area in built form by utilising appropriate architectural design, site layout and density which complements and contributes to the overall character and appearance of the area.</u></li> </ul>  |

#### Regulation 19 – SDNPA Consultation Response

4.6. Regulation 19 consultation was held between 3<sup>rd</sup> August and 28<sup>th</sup> September 2020. In response to the consultation the South Downs National Park Authority made the following points related to SA12 and SA13:

- Support SAGEN and references/principles related to the SDNP
- Welcome a number of changes made to the requirements of SA12 and SA13 which go some way to addressing the matters raised at Regulation 18 stage
- **Re: SA12:**
  - Remain concerned it would erode the buffer between Burgess Hill and SDNP
  - Welcome additional policy requirements re landscape but unclear whether the proposals could meet these requirements
  - Query whether the site has capacity to support 40 dwellings once landscape matters have been addressed
- **Re: SA13:**
  - Remain concerned it would erode the buffer between Burgess Hill and SDNP
  - Welcome additional policy requirements related to urban design which recognises the transitional nature of the site and requirement for lower density in the southern end to reflect the existing settlement pattern
  - Suggest moving the open space to the southern end of the site
  - Recognises the positive intent of new policy requirement related to design and layout, however suggest this could go further
  - Landscape evidence is required to inform site capacity, query whether there is capacity for 300 dwellings when landscape has been accounted for
  - Welcome additional policy requirement related to dark night skies

- Support additional wording related to Highways and Access
- Noted that traffic increases through Ditchling but is downgraded out of 'significant' category with proposed mitigation

#### Regulation 19 Comments - MSDC Position

- 4.7. MSDC is of the view that the comments received during the Regulation 19 consultation (viewed in conjunction with an agreed Statement of Common Ground – below) were positive and reflected the amendments that had been made following Regulation 18 stage and dialogue between the Parties prior to the Regulation 19 consultation. Whilst MSDC notes that SDNPA remained concerned regarding yield, this was viewed in the context that no objection had been raised to the Plan as a whole or the principle of the proposed allocation.
- 4.8. In addition, ahead of submission the site promoter had prepared a Landscape and Visual Appraisal (LVA) report which was shared with SDNPA for comment (more details are provided in Section 5). In MSDC and the site promoter's view, this demonstrated that a yield of 300 is possible in landscape terms. It is noted that, at an average density of 30dph, the site would be capable of achieving approximately 450 dwellings. Given the site's position on the edge of a Category 1 – 'Town' settlement (the most sustainable) and in a highly sustainable location within that settlement itself, a higher density towards 30dph could have been expected to make the most efficient use of land. However, it is In MSDC and the site promoter's view that the particular sensitivities regarding landscape, and the potential impact on the SDNP have led to a reduction to 300 dwellings (at 19.7dph).
- 4.9. In the absence of any detailed comments/concerns or contrary evidence from SDNPA regarding the site promoter's LVA ahead of submission or during Regulation 19 consultation, MSDC and the site promoter are confident that 300 is achievable on site albeit that further information may be required at planning application stage (such as LVIA as required by policy SA13).
- 4.10. Discussion with the SDNP following the Regulation 18 consultation included the location of the proposed open space. The Council's position is that there are strong urban design and amenity principles which support provision of an easily accessible main area of public open space more centrally within the development. The aim of which would also be to provide a focus for the development and an opportunity to increase densities around the open space in a less sensitive part of the site in landscape terms. This space is intended to provide for a variety of activities for its residents including equipped play space and higher density development surrounding the space will ensure maximum benefit is secured for future residents. The final location of the open space can be assessed in more detail and determined at application stage.
- 4.11. As can be seen from the policy amendments made prior to regulation 19 (extract below from 'Urban Design Principles' section of SA 13, with amendments in red), the policy wording was amended to reflect the SDNP aspiration for lower densities at the more sensitive southern end of the site and does not preclude another area of more informal open space to the southern end of the site should one be deemed appropriate through the planning application and detailed design work. The following amendment was made:
- Establish a strong sense of place through the creation of a main central open space to provide a focus for the development with higher density housing in

close proximity to benefit from the provision with lower density development towards the southern end of the site to reflect the existing settlement pattern.

## Regulation 19 Comments - SDNPA Position

- 4.12. SDNPA is of the view that comments made during the Regulation 19 were a combination of positive comments about amendments that were made and clear concerns about remaining matters that had not been sufficiently addressed. Most notably, these include:
- concern regarding the erosion of the rural buffer and setting of the SDNP;
  - the need for landscape evidence to inform site capacity, layout and other aspects of design, in order to respond to the character and sensitivities of the site; and
  - concern as to how the layout and capacity of the site would deliver the proposed allocation figure when landscape matters are accounted for.
- 4.13. Together, addressing these matters would ensure the site layout and scale of development is genuinely landscape-led.
- 4.14. It is agreed that SDNPA did not object to the Plan as a whole or to the principle of the allocation because SDNPA agree that the site is capable of accommodating some development. However, this does not obviate the concerns clearly raised regarding the capacity of the site to accommodate the proposed figure identified when taking into account of landscape matters, particularly the setting of the SDNP. These comments and concerns were not a direct detailed critique of the landscape evidence but do pertain to important fundamental matters and principles of landscape evidence, which is the responsibility of MSDC as the planning authority to ensure they have sufficiently robust evidence to justify the yield and development criteria of their SA13 allocation
- 4.15. The justification for having an area of open space in the centre of the site for urban design reasons are understood. However, it is noted that this does not respond to the landscape, despite the assertion of a landscape-led approach. The ramifications are that greater care and much lower densities are needed in the southern part of the site if landscape sensitivity and SDNP setting are to be addressed.
- 4.16. It is noted that the additional wording above regarding lower density development towards the southern end of the site was not accompanied by a corresponding adjustment in the overall housing number identified for the site.

## Statement of Common Ground

- 4.17. A Statement of Common Ground (DC11) was signed on 17 July 2020 by the National Park Authority. The Statement highlighted concerns raised in response to the Regulation 18 regarding the potential to harm the special qualities and landscape character of the setting of the Park; particular concern was raised regarding SA13 as the larger of the two sites proposed adjacent to the Park (SA12 being the other).
- 4.18. The Statement highlights specific concerns in relation to:
- Eroding the rural buffer between Burgess Hill and the Park;

- The impact on the historic character of the site which survives from the medieval period and is shared with parts of the Park, suggesting the site therefore contributes positively to the setting of the Park; and
- The impact on the role of this area as part of the rural transition from Burgess Hill to the Park.

4.19. The Statement confirms:

- The Parties agree the site is able to accommodate some development;
- That there has been dialogue between the Parties to clarify the Park's concerns;
- However, based on the information available the Park remain concerned regarding whether the site can sensitively accommodate the proposed yield of 300 dwellings.

4.20. The Statement also confirms the Parties agree that there are no substantial areas of disagreement relating to the emerging Site Allocations DPD and to continue to work together proactively on the areas of ongoing work discussed in the Statement of Common Ground.

## 5. Factual Position – Supporting Evidence

- 5.1. The following documents are within the Sites DPD Evidence Base and are agreed by all parties as the evidential background supporting sites SA12 and SA13 at submission.

### Landscape and Visual Impact Assessment (LVIA)

- 5.2. The Regulation 18 Sites DPD contained a policy requirement for a Landscape and Visual Impact Assessment (LVIA) to be undertaken for both SA12 and SA13 to inform site layout, capacity and mitigation requirements. As a policy requirement it was expected that the LVIA would be carried out to support a planning application. Due to concerns raised by the SDNPA at Regulation 18, it was suggested by MSDC to the site promoter that, whilst not a requirement until application stage, it would be beneficial to carry out detailed landscape work ahead of submission.
- 5.3. For SA12, the site promoter (Jones Homes) instructed Lizard Landscape Design and Ecology to undertake an LVIA. This was completed and added to the Examination Library [SA12.4] in August 2020 ahead of consultation at Regulation 19 stage.
- 5.4. For SA13, the site promoters (Thakeham Homes and Persimmon Homes) instructed CSA Environmental to undertake a Landscape and Visual Appraisal (LVA). This was completed and added to the Examination Library [SA13.1] in August 2020 ahead of consultation at Regulation 19 stage.
- 5.5. Drafts were circulated to the SDNPA 14th February 2020, with the SDNP comments provided on 9th April 2020. Both documents were revised by the site promoters to account for these comments and South Downs National Park were reconsulted on an amended LVA for SA13 on 20th May 2020 and provided with a response from SA12 on 20th April 2020; further comments were received from the Park regarding both sites on 20th June 2020.
- 5.6. The final versions of the documents were published on the Council's website ahead of Regulation 19 consultation so that any interested party could refer to them in their Regulation 19 response. South Downs National Park made no further specific comments on the documents during the Regulation 19 consultation.
- 5.7. The LVA prepared by CSA has been informed by Site visits undertaken by two chartered landscape architects with significant experience of undertaking landscape and visual appraisal work including for EIA development.
- Ben Spurden, BA(Hons) MLA CMLI, (14 years experience of LVIA)
  - Chris Armstrong, Ba (Hons) DipLA DipUD CMLI, (18 years experience of LVIA)
- 5.8. CSA consider the methodology which informs the LVA follows the guidance set out in GVLIA 3 and has been tested on numerous occasions at Planning Inquiries and has been found to be robust. It was not considered appropriate to produce a full LVIA at this stage in the planning process. As set out in GLVIA 3, LVIA is normally associated with EIA development. The submitted LVA provides a comprehensive assessment of the existing baseline character and views, and the likely landscape and visual effects which could result from development. It provides a level of information which enables informed plan making and is just one part of the landscape evidence which has been prepared to support the allocation.

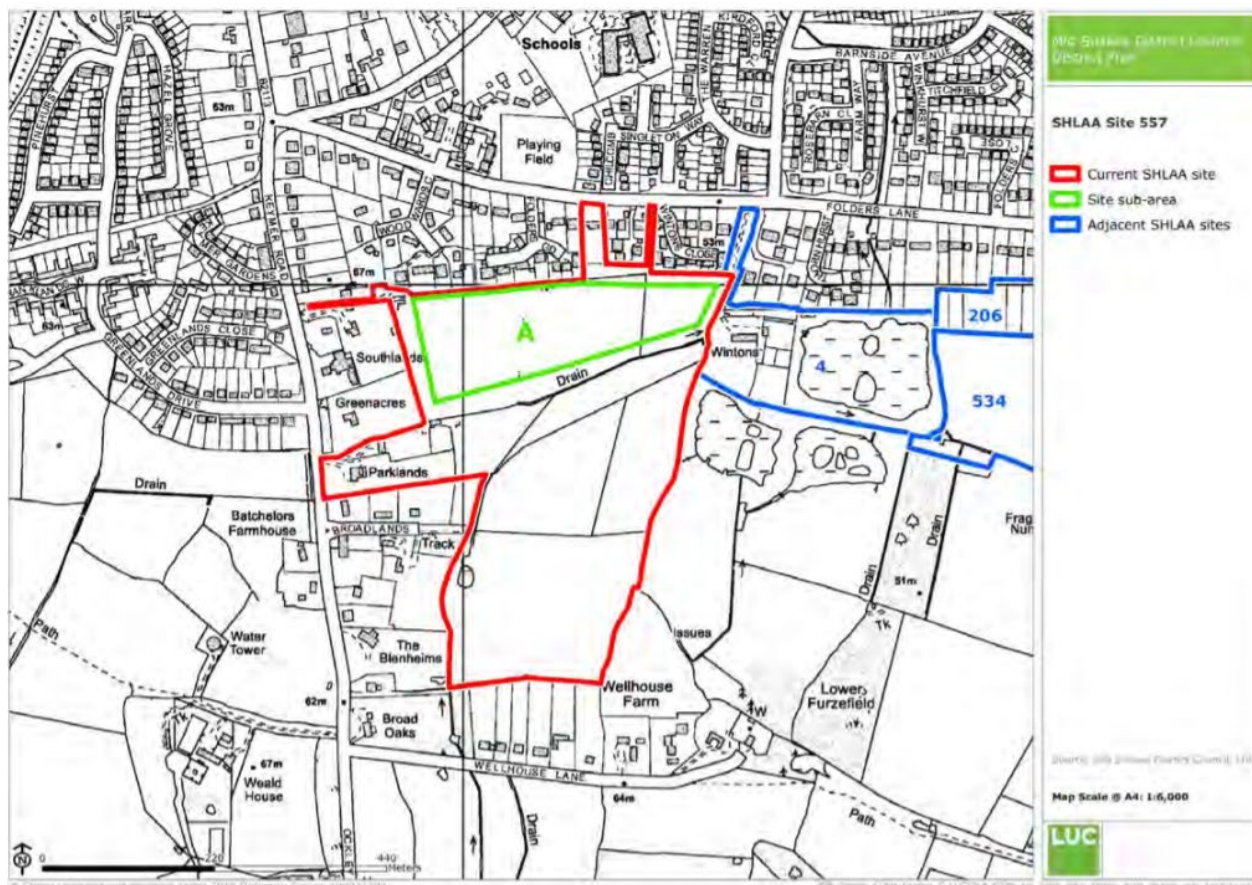
## Mid Sussex District SHLAA: Review of Landscape and Visual Aspects of Site Suitability (the 'LUC Report')

- 5.9. Mid Sussex District Council commissioned Land Use Consultants (LUC) in 2015 to review a series of sites promoted to MSDC at that time and provide a detailed and robust assessment of the potential for development, with a focus on landscape and visual impact considerations, to guide site selection and capacity within Mid Sussex to accommodate development during the District Plan process.
- 5.10. The LUC Report was not originally within the Sites DPD examination library as its purpose was to support the District Plan rather than to provide detail for the Sites DPD, plus sites within the Sites DPD had carried out their own site-specific landscape appraisals (such as LVA or LVIA) which were likely to supersede its findings. However, it was added to the examination library following the hearings (O22)) as SDNPA have come to a similar conclusion to the findings within the LUC report and therefore have referenced it in presenting their view on potential capacity for SA13. In addition, it is referenced in the LVA by CSA Environmental.
- 5.11. The LUC Report findings were based on desktop and field visits. It does not provide specific developable area, density or yield figures, as these can all be influenced by non-landscape considerations, but it provides an indication of the scale of development that could be acceptable in terms of landscape and visual character on all or part(s) of a site and assesses the level of landscape suitability that would apply to that scale of development.
- 5.12. The LUC report classifies a development yield under the following broad (non site-specific) ranges:

| Development Yield | Number of dwellings |
|-------------------|---------------------|
| Low               | Up to 6             |
| Low-medium        | 7-20                |
| Medium            | 21-50               |
| Medium-high       | 51-150              |
| High              | More than 150       |

- 5.13. At the time the LUC Report was prepared, site SA13 was referenced as #557. Table 6 [Page 19] found that "Sub Area A", the top three fields, has 'Medium' capacity. The rest of the site has LOW suitability. Para 2.10 of the LUC report says: 'if the judgement was that unacceptable adverse landscape effects would be likely to occur were any housing development to take place, the landscape suitability of the site was assessed as low' although this has not translated to a conclusion on potential yield in the assessment of #557 specifically.





5.14. The LUC Report is a high-level report (i.e. not a LVA or LVIA or written in accordance with LVA/LVIA guidelines). The SDNP consider the LUC Report correctly follows the Sensitivity and Capacity Guidelines ([Techniques and criteria for judging capacity and sensitivity \(Topic paper 6 April 2002\)](#)); As to be expected during the process of allocating sites, site promoters were encouraged to provide more detailed landscape evidence to support their potential allocation. The evidence provided by site promoters is more site-specific, able to look at specific landscape characteristics in more detail and suggest mitigation to minimise any negative impacts. Site-specific information can be used to inform master planning, so that it is landscape-led and respects and sensitivities.

#### Supporting evidence – MSDC / Site Promoters Position

- 5.15. MSDC and the Site Promoters are of the view that sufficient and proportionate evidence (in accordance with NPPF paragraph 31) has been prepared and submitted to the examination to support the allocation of SA13 and justify the yield proposed.
- 5.16. Whilst the LUC Report was not originally submitted to the examination, it is clearly referred to within the LVA accompanying SA13 [SA13.1, section 5] which reviews its contents and comments on the conclusions reached. MSDC and the Site Promoter are of the view that the LUC Report provides a high-level conclusion, which is supplemented by more detailed site-specific considerations and evidence within the LVA.
- 5.17. The LVA has been undertaken in a rigorous manner, informed by site visits from two experienced chartered landscape architects and the methodology accords with the

guidelines set out in GVLIA3. It correctly considers the existing landscape evidence and baseline situation, including landscape character, value and sensitivity which have informed judgements about the overall capacity of the site to accommodate development. It identifies views to and from the National Park and considers the contribution that the character of the Site makes to the setting of the designated landscape. The LVA conclusion is that this more detailed assessment shows SA13 has a higher capacity for development based on a site-specific analysis compared to the conclusion reached in the LUC Report.

- 5.18. MSDC and the Site Promoter are confident that the yield proposed (300 dwellings) can be accommodated on the site, and that this yield has been determined whilst taking account of the sensitivities set out within the LUC Report and the site-specific LVA. The LVA was accompanied by a Landscape Principles Plan, which showed an indicative developable area. This plan shows that development would occupy broadly fifty percent of the Site, with the remainder retained landscape features and open space.

#### Supporting evidence - SDNPA Position

- 5.19. MSDC, as the planning authority, have the responsibility to ensure that the necessary robust evidence to support their allocations. SDNPA have however, as a neighbouring planning authority and with a role in regards to the setting in pursuit of the National Park Purposes reviewed the evidence presented by Mid Sussex and others in support of the allocations within the setting of the National Park, in order to ensure it is robust and meets the NPPF requirements and National Park Purposes (Environment Act 1995). SDNPA have provided comments to MSDC on what is missing or insufficient and therefore what needs to be addressed in the evidence and subsequent policy. SDNPA continue to consider that there are considerable shortcomings in the landscape evidence submitted in support of the allocation of SA13. The thread of evidence from which Mid Sussex reach an allocation figure of 300 does not follow through.

- The LUC (2015) Study considered site specific landscape and visual capacity for housing. It found the site had a **Low-Medium** landscape suitability for housing and a Medium Development Yield of **21-50 dwellings** in the 3 northern fields of the site only. The rest of the site was considered to have a Low landscape suitability and therefore no yield was provided. This work built upon the 2007 Study by HDA, which sets a Methodology using the published Guidance *The Countryside Agency: Topic Paper 6 Techniques and Criteria for judging capacity and sensitivity (2002)*. This Guidance was reviewed in 2019 by Natural England, and so the 2015 LUC Study rightly applied the 2002 version.
- We note that the LUC study says: Importantly is acknowledges at paragraph 1.12: *'This assessment does not provide specific developable area, density or yield figures, as these can all be influenced by non-landscape considerations, but it provides an indication of the **scale** of development that could be acceptable in terms of landscape and visual character on all or part(s) of a site, and assesses the level of **landscape suitability** that would apply to that scale of development'*. This relates to the broad figures provided in the box above.
- It also states (paragraph 2.14): *'It should be noted that, whilst a development yield figure is given where landscape suitability is assessed as low-medium, there would, depending on the*

*precise nature of the development and mitigation proposed, still be considerable potential for unacceptable landscape effects.'*

- Yet the more recent and detailed LVA produced by CSA in support of the allocation comes up with a very different answer. This says the site can now yield **300 dwellings** and this accounts for the SDNP setting. Without this account Mid Sussex DC consider 450 units (*pers comm*). The Policy environment has changed since 2015 – with a greater emphasis on protecting the setting of the National Parks in the NPPF Paragraph 176. The SDNPA have identified a number of significant flaws in the LVA. It attempts within it to determine; site suitability, rebut earlier evidence commissioned by Mid Sussex DC on landscape capacity and provide justification for the allocation of SA13. None of these are part of the role of an LVA as set out in the best practice guidance, which should be clearly and objectively demonstrating the effects of a proposal upon landscape and views. The LVA is missing significant evidence, most notably it fails to determine the setting of the National Park. It relies heavily upon the site being hidden from views and it uses this as justification for the number of dwellings proposed. If Mid Sussex then needed a Landscape Sensitivity and Capacity Study MSDC should instead have been re-commissioned to superseded the LUC work. The understanding of the landscape of this site and its context and how its sensitivity changes is wholly lacking in the LVA and the opportunities and constraints plan (in the original LVA and the version appended to this SoCG) in support of it also fails to acknowledge the setting of the National Park and site's varied sensitivity to housing.
- The SDNPA have provided CSA with a critique of the LVA following Landscape Institute professional guidelines for assessing LVA and provided a series of recommendations. It is our view that the LVA fails to demonstrate new landscape evidence, which puts the LUC findings into doubt. Unlike the LUC work, the CSA LVA fails to follow any clear or robust methodology (either for determining sensitivity and capacity, or assessment of effects). The significant increase in dwelling numbers causes SDNPA concern and we consider it is not possible on this site to deliver 300 dwelling whilst meeting the NPPF draft wording. The opportunities and constraints plan provided simply presents (some) of the landscape findings. It fails to interpret these findings and identify clear opportunities and constraints which can be used to guide a sensitive landscape-led design.
- Landscape-led means 'Design, which is strongly informed by understanding the essential character of the site and its context (the landscape), creates development which speaks of its location, responds to local character and fits well into its environment. It needs to conserve and enhance the natural beauty, wildlife and cultural heritage of the area and create sustainable and successful places for people'.
- SDNPA support MSDC desire to follow a landscape-led approach to the design of the scheme for SA13. Adherence to a landscape-led design front-loads landscape evidence (which includes topics such as ecology, hydrology, landscape history and perceptual qualities), this provides significant opportunity to avoid negative effects and maximise the positive benefits that can accrued through good planning and design. The Approach encourages a capacity to be sought, which can be achieved whilst retaining the character and function of the existing landscape.

- 5.20. The SDNPA does not agree that the LVA assessment accompanying SA13 is detailed, because it is missing significant information that should be considered as part of landscape and does not sufficiently adhere to the methodology in accordance with GLVIA3.
- 5.21. SDNPA has yet to see any evidence that undermines LUC Report. The LUC Report provides a site-scale assessment of sensitivity and capacity and SDNPA consider the LUC Report robust and up-to-date.
- 5.22. The site is within the setting of the SDNP and the site's landscape patterns of elements and features contribute positively to the character and function in the setting.

## 6. Post-Hearings: Approach

- 6.1. Following the hearing sessions, all parties agreed to work together to find common ground. A site visit was carried out on 17<sup>th</sup> June 2021. This was attended by officers from MSDC and SDNPA as well as the site promoters (including their landscape consultant). The site visit enabled all parties to discuss the particular concerns raised by SDNPA during the hearing sessions and agree next steps.
- 6.2. Discussions have continued between all parties. To inform this work, the following tasks have been completed:
  - Meetings between MSDC and SDNPA to understand concerns and agree a way forward
  - Meetings between MSDC and Site Promoter to discuss evidence base and agree a way forward
  - Meetings between SDNPA and Site Promoter to discuss specific concerns with the current evidence base (specifically the LVA)
  - Review of the LVA by SDNPA, comments provided to the Site Promoter
  - Site Promoter response to SDNPAs comments
  - Opportunities and Constraints Plan prepared by the Site Promoter
  - Discussions to agree any matters arising from the Opportunities and Constraints Plan
  - Discussions between all parties to prepare and agree this Statement of Common Ground

### Additional Evidence Base

- 6.3. In discussions following the hearings, SDNPA suggested that additional landscape evidence was required to support the MSDC and site promoter's conclusions on yield for SA13. The Site Promoter indicated that there was already sufficient evidence in the library to support the proposed yield, in particular the site-specific LVA.
- 6.4. It was agreed that SDNPA should review the evidence already completed and within the evidence library already, and that this could be supplemented if required, rather than a new study being commissioned.

### Review of the LVA

- 6.5. SDNPA provided comments on the LVA supporting SA13 [SA13.1] to all parties on 2<sup>nd</sup> July. The comments were based on three components of the "Landscape Institute Guidelines for Reviewing LVIA":
  - Checking the methodology
  - Checking the baseline
  - Checking the presentation of the assessment findings
- 6.6. SDNPA noted that the document was a Landscape and Visual Appraisal Report (LVA) as opposed to a Landscape and Visual Impact Assessment (LVIA) which is the requirement set out within policy SA13. The review of the LVA was focussed on the above three aspects as opposed to specific sensitivities or concerns with the site itself.
- 6.7. MSDC and Site Promoters note that proposed policy SA13 requires LVIA to be carried out at application stage, and that the LVA submitted was to inform the allocation of the

site and to ensure that landscape sensitivities had been accounted for, to demonstrate the principle of allocating the site is sound and to inform the capacity of the site. The SDNPA dispute the landscape capacity of the site to receive development, and this is what the Opportunities and Constraints Plan was designed to inform in more detail.

- 6.8. MSDC and the Site Promoters are of the view that the LVA is sufficiently detailed to provide a proportionate evidence base required at allocation stage – with further detail to support a planning application to follow later down the line. The principle of development is supported, however specific sensitivities can be addressed through detailed master planning at application stage.

#### Opportunities and Constraints Plan

- 6.9. All parties agreed that an Opportunities and Constraints Plan should be prepared to set out the particular sensitivities of the site and how it changes across the site towards the SDNP.
- 6.10. The Parties agreed that the Opportunities and Constraints plan should be updated to include greater detail of the varying character and landscape sensitivities associated with each of the land parcels which make up SA13. This work was informed by the SDNPAs comments on the LVA.
- 6.11. The Opportunities and Constraints Plan identifies a number of sensitivities; these were known at the time of submission and informed policy writing and overall yield. In relation to policy wording, the following sensitivities identified on the plan are already addressed:
- Tranquillity (the SDNPA considers that this needs ground-truthing)
  - Transition re urban edge, semi-urban to semi-rural character
  - Existing landscape features, structures and trees
  - Historic field structures
  - Views to/from the SDNP
  - Dark Night Skies
  - Slope/contours
  - Listed buildings
  - Existing habitats
  - SuDS and Green Infrastructure

#### Opportunities and Constraints Plan – MSDC / Site Promoters Position

- 6.12. MSDC considers that no further constraints were identified on the Opportunities and Constraints Plan that required any additional criteria to be included within policy SA13 – all constraints had been addressed with a corresponding policy requirement for assessment at application stage.
- 6.13. The purpose of the plan was to present a factual position clearly setting out the factors which would influence the overall capacity of the site to accept development. It is based on the available evidence at the time. It includes additional information on the ecological value of the site, tranquillity and flooding amongst other things. It also illustrates the Sites relationship to the SDNP.
- 6.14. If required, reference to the Opportunities and Constraints Plan could be included within the policy wording.



## Opportunities and Constraints Plan – SDNPA Position

- 6.15. The purpose of preparing an Opportunities and Constraints Plan is to show spatially where sensitivities might exist and where opportunities to enhance a site might also be available to identify implications for capacity and design. In this particular case, the Plan was to ensure MSDC had the evidence they needed to determine this site's sensitivity and understand how it changes across the site towards the SDNP. This core information is not shown on the Plan. The site does not express the same landscape sensitivity across its area and this change across the site is not reflected in the Plan. Fundamentally, the setting of the National Park, a key sensitivity, is missing. Other considerations missing from the Plan include historic field boundaries, site scale contours, setting and character of listed buildings, and tree/hedge protection areas.
- 6.16. An Opportunities and Constraints Plan should be providing an interpretation of the sensitivities across the site rather than simply highlighting where features are on a site. Following on from this, the SDNPA's concern is that these sensitivities are not changing the capacity for the site, nor its potential design. Therefore, this does not sufficiently contribute to addressing the requirement of NPPF paragraph 176 that development within the setting of the National Park should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.



## 7. Common Ground

7.1. The following general points are common ground between all parties (MSDC / Site Promoters / SDNPA):

- Both sites SA12 and SA13 are not within the South Downs National Park however are within its setting.
- MSDC and SDNPA has engaged constructively and on an on-going basis throughout the preparation of the Sites DPD as agreed in an existing SoCG.
- Site SA13 is capable of accommodating a quantum of development albeit SDNPA are concerned by a yield of 300 and do not consider sufficient evidence has been provided to demonstrate that the quantum of 300 can be accommodated while addressing landscape matters raised.
- All parties agree that the submitted policy wording for SA13 correctly identifies the sensitivities of the site, and sets out mitigation or considerations that will need to be addressed at the planning application stage.
- A planning application will be supported by additional evidence to demonstrate compliance with policy SA13, and this will present another opportunity to revisit yield, layout, masterplanning and site-specific mitigation in more detail.

7.2. The following landscape points are common ground between all parties (MSDC / Site Promoters / SDNPA):

- The Site is not visible from the National Park within the immediate vicinity, and that any inter-visibility between the Site and the National Park is limited to the chalk ridge some 4.5km from the Site.
- There are no views of the Site from the public right of way on Wellhouse Lane.
- Small scale field pattern and medieval assarts are characteristic of the Low Weald character area.
- Hedgerows and trees lines are significant features of high landscape value.
- Site is bordered by built development on three sides.
- Perceptual qualities are more readily experienced in the southern part of the Site.
- The topography of the site slopes from approximately 60m Above Ordnance Datum at the northern boundary, to 55m AOD at the base of a shallow valley, before rising within the southern three fields to approximately 65m AOD at the southern boundary.
- The Site is within the setting of the SDNPA and displays some characteristic landscape patterns of elements and features which can be found within the landscape of the SDNPA.
- The site sensitivity increases moving south towards the SDNP

7.3. The following points on the Opportunities and Constraints Plan are common ground between all parties (MSDC / Site Promoters / SDNPA):

- The Plan identifies presence of various landscape features of the site.

## 8. Issues Unresolved (Uncommon Ground)

8.1. The following general point is unresolved:

- SDNPA remain concerned by a proposed yield of 300 units for site SA13. SDNPA do not consider sufficient evidence has been provided to demonstrate that the quantum of 300 can be accommodated while addressing landscape matters raised reflecting paragraph 176 of the NPPF, which requires development within the setting of the National Park should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas. MSDC / site promoter's position is that a potential yield of 450 dwellings has been reduced to 300 dwellings in response to landscape evidence and sensitivities identified on site.
- SDNPA consider that it has not been sufficiently demonstrated why the LUC capacity work is not being used. MSDC / site promoter's position is that it has been referred to in the more detailed LVA work carried out by CSA Environmental, which provides additional detail before reaching its conclusions.

8.2. The following points on the Opportunities and Constraints Plan are unresolved:

- The purpose of this Plan was to ensure Mid Sussex had the evidence they needed to determine the site's sensitivity, understand how it changes across the site towards the SDNP, and identify opportunities to enhance, ultimately to then inform capacity and design. SDNPA consider that this core information is not shown on the Plan.
- SDNPAs consider the Plan does not define the setting of the SDNP, which is an important landscape consideration. This is the key sensitivity and its character comprises key perceptual qualities and historic and ecological coherence.
- SDNPA consider that the Plan identifies the presence of landscape features on the site but provides no analysis or interpretation and that the Plan does not reflect the difference in value and sensitivity across the site. For example, the fields in the north of the site are recorded in the same way as those in the south. Whilst these all may be semi-improved grassland, it is important to note there is a wide spectrum within this habitat type that is not captured in the Plan. A combination of surviving historic field pattern, high ecological value, and sense of place/perceptual qualities, combine to make those lower fields more sensitive to change. As a further example, reinforcing existing hedgerows is not an opportunity in this instance. At present they are excellent infrequently managed hedgerows, largely without gaps and so it is not an opportunity to add to an existing excellent resource.

## 9. Way Forward

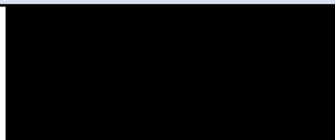



9.1. All parties agree that the extent of their views and supporting evidence base on this matter has now been submitted to the Sites DPD examination. This includes:

- SDNPA comments at Regulation 18 stage
- SDNPA comments at Regulation 19 stage
- Evidence base supporting the Sites DPD (including the LUC Report)
- Evidence base in support of SA13 (including the LVA)
- Agreed Statement of Common Ground between MSDC/SDNPA before submission
- Hearing statements provided by all parties to support the examination hearings
- Verbal comments made during the hearing session
- The contents of this Statement of Common Ground

9.2. On that basis, all parties agree that there is unlikely to be merit in holding an additional hearing session on SA13 regarding the relationship with the National Park, as the extent of evidence and all parties views are well documented. In addition, there is significant common ground between all parties as set out in this SoCG. Any issues that remain unresolved are largely as a result of a difference in professional opinion, the parties agree that the Inspector is best placed to come to a conclusion on these matters based on the evidence base listed above or any additional written statements if required.

9.3. All parties agree in principle for the Inspector to make modifications to the policy wording of SA13 to respond to outstanding concerns, albeit MSDC and the site promoters' position is that the policy as submitted is satisfactory in setting out the mitigation required to respond to sensitivities identified in the LUC Report, LVA and Opportunities and Constraints Plan.

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| Signatory                           | Signature   | Date       |
|-------------------------------------|---|------------|
| Mid Sussex District Council         |  | 13/10/2021 |
| South Downs National Park Authority |  | 13/10/2021 |
| Thakeham Homes<br>(Site Promoter)   |  | 13/10/2021 |
| Persimmon Homes<br>(Site Promoter)  |  | 13/10/2021 |



## **Appendix 1: Opportunities and Constraints Plan**





**Site Boundary: Approx. 15.12ha**

**Constraints**

- Existing contours
- Existing vegetation
- Existing water features
- Extent of surface water flooding (Source: Environment Agency)
- Respect amenity of adjoining dwellings
- Public footpaths
- Main vehicular routes and existing bus stops
- South Downs National Park
- Protecting Areas of Townscape Value (Source: Mid Sussex District Council, 2018)
- Informal Open Space (Source: Mid Sussex District Council, 2018)
- Listed Building
- Tree Preservation Orders within vicinity of the Site
- Scattered scrub
- Existing dense scrub
- Existing scrub/ neutral grassland
- Marshy grassland/marginal
- Semi-improved grassland
- Dark Night Sky Zone: Transition Zone (Source: South Downs National Park, Dark Sky Zones)
- No intervisibility

**Opportunities**

- Potential vehicular access point
- Potential internal vehicular access points between fields
- Opportunity to reinstate historic hedgerow
- Potential location for Sustainable Drainage System (SuDS) basins (subject to drainage input)
- Opportunity to reinforce boundary planting
- Potential pedestrian link
- Potential location for open public space

|   |          |    |                          |
|---|----------|----|--------------------------|
| B | 24.08.21 | BS | Updated tree survey data |
| A | 20.08.21 | BS | Minor amendments         |

Rev Date By Description

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**Project** Land east of Greenacres, Keymer Road Burgess Hill

**Title** Opportunities and Constraints Plan

**Client** Thakeham

|                    |              |                |    |
|--------------------|--------------|----------------|----|
| <b>Scale</b>       | 1:2000 @ A2  | <b>Drawn</b>   | KP |
| <b>Date</b>        | August 2021  | <b>Checked</b> | CA |
| <b>Drawing No.</b> | CSA/4007/103 | <b>Rev</b>     | B  |