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8th October 2018

Dear Planning Policy Team

Proposed Submission Wealden Local Plan - August 2018. Pre-submission consultation representation

This is the formal response of the Campaign to Protect Rural England Sussex Branch (CPRE Sussex) to the Wealden District Council (WDC) public consultation on the pre-submission Local Plan 2018 ('the Local Plan.')

CPRE Sussex is a charity which works to promote the beauty, tranquillity and diversity of the Sussex countryside by encouraging the sustainable use of land and other natural resources in town and country. We encourage appropriate and sustainable land use, farming, woodland and biodiversity policies and practice to improve the well-being of rural communities. It is our position that local planning authorities should seek to ensure that the negative impacts of development on the countryside, both direct and indirect, are kept to a minimum and that development is sustainable in accordance with national planning policy.

Our response has been uploaded to the consultation portal, however I also wanted to send you this summary which includes graphs and tables which may not format properly on your website.

Chapter: 1, Paras 1.3 and 1.19

Para 1.3- If the soundness of the submission draft Plan is intended to be formally assessed by reference to the original 2012 version of the National Planning Policy Framework, we urge your Council to ask the Examining Inspector also to report on its soundness by reference to the recent NPPF revisions. The weight to be given to your Plan policies in future individual planning applications and appeals will depend on the degree of their consistency with the revised NPPF. If they have not been declared by the Inspector, after their examination, as being consistent with the NPPF as revised, their conformity will constantly be argued over, their effectiveness thereby subject to uncertainty and challenge, and the authority of your new Plan

as the chosen vehicle for the implementation of strategic planning within the District undermined – a deplorable outcome.

Para 1.19 - the Plan should indicate explicitly which of its policies are strategic and which are not (NPPF (2018) paras 18 and 21) in order that parishes can know the boundaries of their flexibility in developing their own neighbourhood plans as per paras 28 -30 of the revised NPPF.

Chapter: 5, Policy Number: AF1

CPRE Sussex does not consider this policy legally compliant as it fails to comply with the Habitats Regulations 2017.

The Habitats Regulation Assessment (HRA) background paper, states that should the plan be adopted, development identified in this plan (in combination with developments elsewhere) will produce an increase in harmful emissions to the nearby protected sites, in contravention of the Habitats Regulations 2017.

Policy AF 1 appears to be an overarching policy for this plan, but the HRA provides no evidential support that can provide a justification for a conclusion by the council that mitigation will be effective to avoid harm to the SAC from traffic induced emissions.

Natural England, as the nature conservancy body, is required to comment on the appropriate assessment (AA) being Stage 2 of the HRA and Wealden as the competent authority has to show that it has considered these comments. It is not evident that comments from Natural England have been considered and incorporated.

CPRE Sussex does not consider this policy justified or effective as there is no evidence within the HRA that shows that the proposed mitigation will reduce harmful emissions. Certainly, there is a complete lack of evidence that the effect of the mitigation can be proven beyond reasonable doubt that an adverse effect will not take place to the integrity of any qualifying protected sites.

Chapter: 5, Policy Number: AF2

CPRE Sussex does not consider this policy legally compliant as it fails to comply with the Habitats Regulations 2017.

To comply with the Habitats Regulations, a plan is required to demonstrate that it will not adversely affect the integrity of the European site. Currently, the information that the Council has compiled in their Habitats Regulations Assessment (HRA) has confirmed at paragraph 12.35:

‘Taking into account all elements investigated as part of the appropriate assessment the Wealden Local Plan (WLP) both alone and in combination will result in an adverse impact on the integrity of the site and will create conditions that would inhibit restoration of the annex I habitats at Ashdown Forest SAC should this growth take place unchecked.’

Thus, to comply with the Habitats Regulations, avoidance/mitigation measures are required to remove any additional harmful effects arising from the WLP.

Paragraph 12.24 of the HRA includes a list of 30 potential measures that will be taken forward as part of the mitigation strategy. But this mitigation strategy has yet to be made public and we suggest that it may well not be complete or in a form suitable for publication. Of the 30 measures, several are about

monitoring, which is essential, but monitoring does not provide mitigation. In addition, three measures listed as mitigation involve large scale infrastructure projects for which currently, no funding is in place or commitment made to progress any of the schemes. Thus, any delivery of these schemes is likely, at best, to be outside this plan period and will not provide any mitigation effects during the life of this plan.

There are four measures (h – k) listed in the Policy that are already being included as conditions in current approved planning applications. However, these measures have been described in Appendix 9 of the HRA as low effectiveness in the report titled Review of Transport Options, Ashdown Forest Air Quality Mitigation Strategy, by Air Quality Consultants.

At paragraph 5.14 of the Proposed Submission Wealden Local Plan, it is stated that the Council has identified a number of mitigation measures that in themselves form part of a Site Nitrogen Action Plan (SNAP) and a low emission strategy. However, to date neither a SNAP, nor a low emission strategy has been produced. Further investigation has revealed that Natural England do not yet know whether SNAP's will be effective as these plans are in the early stages of development with ongoing trials at six locations. Natural England has confirmed that information is not yet available regarding the plan's effectiveness at these locations.

General understanding of what is required in an appropriate assessment is not helped by a lack of definition in the Habitats Directive. However, the second sentence of article 6(3) in the Directive makes clear that it must be an assessment of a quality and rigour capable of satisfying the decision maker that there is no reasonable scientific doubt as to the potential for adverse effects from the project on the site. This is confirmed in Commission v Spain [2011] EUECJ C-404/09 at §100:

In addition, an assessment cannot be regarded as 'appropriate' if it contains gaps and lacks complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the SPA concerned (see, Case C-304/05 Commission v Italy [2007] ECR I-7495 § 69-73, and further in Sweetman).

Thus, it is CPRE Sussex's position that the appropriate assessment has not been completed as there is a complete lack of any evidence, scientific or otherwise, that the proposed mitigations will have the necessary effect of preventing any adverse effect on the integrity of Ashdown Forest SAC.

Without a completed appropriate assessment, it is totally unclear how the competent authority is able to ascertain whether or not the plan will have an adverse effect on the integrity of any European sites. We can only conclude that the Council (the competent authority) has failed to comply with the requirements of the Habitats Regulations 2017 and on this basis, this Proposed Submission Wealden Local Plan 2018 is not legally compliant.

CPRE Sussex does not consider this policy sound, it is not justified, effective or consistent with national policy as there is a complete lack of the necessary evidence that the proposed mitigation will prevent any adverse impact on the integrity of the European protected sites.

Chapter: 6, Policy Number: WLP1 – Provision for Jobs and Homes

CPRE Sussex considers this policy unsound as the housing numbers and employment floorspace contained therein depend on the effective implementation of Policies AF 1 and AF 2. In our response to those two policies, we have claimed that they are not sound as they do not comply with the Habitats Regulations. We would wish to be given the opportunity to comment on this policy once Policies AF 1 and AF 2 have the necessary evidential backing to render it sound.

CPRE Sussex is concerned that there is no textual consideration of whether/how infrastructure or environmental constraints affect deliverability. It would be helpful if there was an indication of what

measures the council would use to address a delay in infrastructure delivery – for example a reference to WLP 13. In Wealden it would be ineffective to allocate more sites to remedy slow delivery if constraints such as EU protections and delays in infrastructure would also impact these additional sites.

Chapter: 6, Policy Number: WLP3 - Development Boundaries

CPRE Sussex consider the concept of development boundaries to be sound, however please refer to our comments in relation to AF1, AF2 and WLP1.

We note that the Target for Policy WLP 3 requires that the majority of new development takes place within development boundaries listed in the policy. We consider that this target is woefully inadequate and contradicts the policy itself. Should 51% of new development take place within the development boundary, then this Target would be met.

Until Policy WLP 1 is found sound, the provisions of Policy WLP 3 cannot be confirmed and we would wish to reconsider our comments on this policy should it be revised.

Chapter: 6, Policy Number: WLP4 - Outside of Development Boundaries

Whilst we support the principle of this policy, the wording needs to be amended so that it reads "Outside of development boundaries, development will not be supported, unless it accords with specific policies in the development plan."

We consider that the 90% target completions within the development boundary or allocations in low and should be increased. The target would be met if 952 dwellings were constructed outside the development boundary, which is far too high. A quick assessment of Policy WLP 7 has indicated that of the 2,516 windfall dwellings, approximately 2,083 are designated within the development boundary. If these dwellings are achieved in the locations identified by this plan, this would represent 93% completion within the development boundary. We consider that 93% should be the minimum the Target should be set at.

Chapter: 6, Policy WLP 5 – Core areas

CPRE Sussex is generally content with the concept of Core Areas but is concerned that the Policy is not sound because development will be permitted adjacent to Core Areas. We consider that adjacent is ill defined (should the term be contiguous?) and should be more specific in order to prevent urban creep and loss of countryside.

We also suggest that this policy would be made sound if the list of the four named policies to be considered in deciding whether a development was compliant was expanded.

Chapter: 6, Policy Number: WLP6 – Neighbourhood Development Plans

Please refer to our comments in relation to para 1.19 - there is a lack of definition of what constitutes the strategic aims and objectives within the local plan, contrary to paragraph 21 of the revised NPPF.

Although the approach of WLP6 is broadly in line with para 69 of the new NPPF in supporting small sites (*"Neighbourhood planning groups should also consider the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 68a) suitable for housing in their area."*) We have concerns about the end of the first paragraph;

“In order to secure this allowance for a Neighbourhood Development Plan it will be necessary for the relevant body to enter into a Memorandum of Understanding with Wealden District Council within six months of the date of the adoption of the development plan.”

It is not clear what will happen if a Neighbourhood Forum fails to enter into a Memorandum of Understanding with Wealden District Council within six months of the date of the adoption of the local plan. Does this mean that they cannot create a Neighbourhood Plan? The first indicator is for the number of neighbourhood plans designated within the plan period. As Wealden currently contains very few neighbourhood plans, this indicator would be worthless if the requirement for a neighbourhood to allocate sites expired six months after the adoption of the local plan.

This policy also needs further clarification as it appears to contradict WLP3 and WLP5 and the NPPF (2018) requires in footnote 16 that *“Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.”* For example, it could say

*“The Neighbourhood Development Plan may allocate outside a Core Area, if it is adjacent to a core area **and** subject to adherence to the strategic aims and objectives contained within the Wealden Local Plan.”*

Chapter: 6, Policy Number: WLP7 – Distribution of homes

CPRE Sussex confirms that this policy cannot be considered sound until the underlying policies AF 1, AF 2 and WLP 1 are confirmed as sound which as a minimum, will require the HRA to be completed (see our response to Policies AF1 and AF 2).

We are also concerned that there is a lack of evidence or transparency concerning the choice of sites for inclusion within the plan and the housing numbers.

Despite the large quantity of supporting information to this plan, there is a lack of clarity regarding how the various parish housing numbers have been derived. There are many references to the settlement capacity, but no evidence to support how this capacity has been determined.

Similarly, the reasons for the locations of the proposed development is obscure. The Council refers to testing various housing numbers/locations, but no evidence of this testing is provided.

We have little confidence in the Sustainability Analysis (SA) presented as part of the supporting information to this plan. We note that many of the analyses were produced three years ago to support the Issues, Options and Recommendations Consultation. A part of the 2015 SA examining the suitability for expansion of three settlements was examined and found to be highly partial and wrong in some areas. When a more rigorous scoring of the objectives was undertaken, the proposal moved from the sustainable to the unsustainable. This information was shared with the Council at the time, but doesn't appear to have been acted upon. Reading many of the sustainability analyses, one is left with the impression that the result is decided upon and then the analysis is tailored to fit that result.

We are also concerned that in arriving at the settlement capacity figures, the July 2017 Landscape and Ecological Assessment Study provides an assessment of many potential sites within the District and recommends mitigation measures necessary should the site be allocated for development. However, there does not appear to be any analysis with regard to the sites' overall suitability in landscape or ecological attributes for development. It is as if the report's author has been instructed to assume that all sites will be developed and to recommend mitigation measures to ameliorate the effects of that development.

Chapter: 6, Policy Number: WLP8 – Employment land

CPRE Sussex consider that for this policy to be effective, targets and indicators relating to the number of small flexible units and the preferred size should be included. Without this information, the preference will remain purely as an aspiration and be unlikely to be delivered.

Chapter: 6, Policy Number: WLP9 – Provision of jobs

CPRE Sussex is concerned that this local plan is providing for 14,228 new dwellings, but only 4,808 jobs. Of this 4,808, only about 500 are on allocated sites with the remainder on windfall sites.

Chapter: 6, Policy Number: WLP 10 - Brownfield

CPRE Sussex strongly supports the principle of WLP10, however we believe that a change of wording is needed in order to better align the policy with the NPPF. The NPPF (2018) in para 118 gives *“substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.”* This *“substantial weight”* is not reflected in policy WLP10 and we would like the wording amended accordingly.

It is not clear how the council has determined ‘settlement capacity’ so it is difficult to understand whether allowing development on brownfield land to exceed the settlement capacity is appropriate. The intention may be to encourage development of brownfield sites, however we believe that the reverse may be true as developers will be encouraged to first build to the settlement capacity on greenfield land before considering whether they wish to pursue permission for suitable brownfield sites. This approach would be contrary to paragraphs 117 and 118 of the revised NPPF.

There should be a clear strategy for accommodating new development in a way that makes as much use as possible of previously-developed or ‘brownfield’ land, before permission is considered for greenfield sites.

Chapter: 6, Policy Number: WLP 11 – Release of land

The naming of this Policy as ‘Release of Land’ is somewhat misleading. Perhaps a better title would be ‘Making effective use of land’ as per the NPPF (2018) chapter 11.

Chapter: 6, Policy Number: WLP 12 – Managing the delivery of housing land.

The Council is proposing to meet the OAN and has included a trajectory within WLP 12 setting out how this will be achieved over the plan period. However, CPRE Sussex is concerned that the significantly higher housing targets set out in the trajectory (compared to the core strategy) are unachievable and that the council will struggle to demonstrate a 5 year supply of housing.

The combination of a large increase in the housing target, a large share of the housing planned in a small part of the district, where house prices are generally lower, and the constraints arising from the need to restrict traffic near Ashdown Forest will make achieving the housing target challenging. We would like the trajectory and housing target adjusted down to more realistic scenarios in order to make this policy justified and effective.

This conclusion has been formed based upon the following information:

1. Development Locations

The Council is aware of the constraint imposed by the Europa 2000 sites in the district but considers it can deliver the OAN of 950 dpa. But to minimise the impact on the protected sites the Council is planning to concentrate development in the South Wealden Growth Area (SWGA) with 65% of the yet to be permissioned growth in the district to be within this area. This 65% is made up from 88% of the total allocations in the plan and 40% of the windfalls. The SWGA is a relatively small area comprising a narrow triangle of land between Hailsham, Willingdon and Stone Cross. Proposed development within the SWGA is concentrated within the settlements of Hailsham and Stone Cross, which between them are expected to deliver 85% of the SWGA growth (all figures are derived from figures in Appendix 2 of the PSWLP).

With the natural rate of population growth in Wealden being negative, the main requirement for additional housing arises from those wishing to move into the district. In addition, with Wealden being a low wage economy and having a negative commuting ratio, only a small proportion of those seeking to move to Wealden will be for work reasons. Thus, the majority of the in-migratory moves will be for lifestyle reasons, with many looking to the north of the district to ease commuting to their place of work. But with the majority of the housing growth being planned for the south of the district, the plan will not help those seeking to live in the north.

With the 63% of the total of yet to be permissioned dwellings in Wealden to be delivered in either Hailsham or Stone Cross, build out of these sites is likely to be highly constrained. Within such a small area, there is the danger that the market will be flooded with too many new dwellings becoming available. Developers will slow down or suspend construction as soon as a backlog of unsold dwellings arises; there is no evidence that they will lower the price to compensate for the over-supply.

2. Historic Performance

The previous housing delivery in Wealden extracted from Annual Monitoring Reports shows:

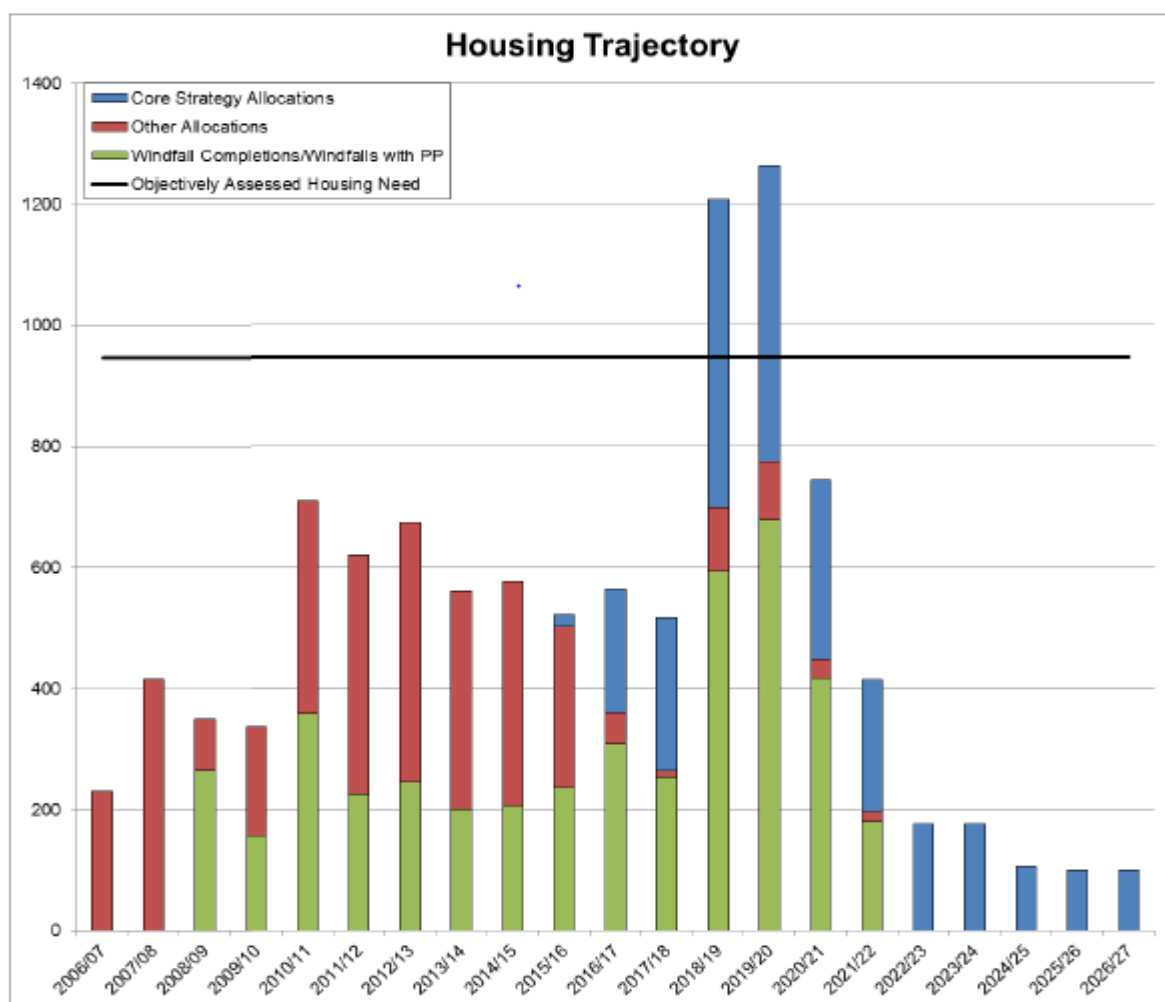
Years	Completions	Max	Min	Average
1991-2000	4,975	804	414	553
2001-2010	2,562	415	128	285
2011-2018	4,684	709	520	585
Total	12,221			453

In the period 1991 to date, the highest delivery over any five year period was 3,235 dwellings at an average of 647 dpa in 1994/5 – 1998/9.

In the five years following the Core Strategy adoption in February 2013, housing delivery of the Core Strategy allocations was 0, 0, 15, 150 with 267 estimated for 2017/18.

3. 2016-17 Housing Trajectory.

We note that completions for 2017/18 was 461 units rather than the 515 units indicated upon the trajectory below contained in the 2016/17 AMR. From our monitoring of permissions granted and the build out of sites, we consider that the projection for the number of completions in 2018/19 and 2019/20 in the trajectory to be completely unachievable and we anticipate that actual completions will be no more than half that shown.



Source – Wealden AMR 2016-17

Comparison between 2016-17 AMR trajectory and 2018 WLP trajectory:

Year	2018 Local Plan Trajectory	2017 AMR Trajectory	Difference
2017/18	461 (actual)	515	-54
2018/19	496	1205	-709
2019/20	852	1265	-413
2020/21	1239	750	489
2021/22	1435	410	1025
2022/23	1256	170	1086
2023/24	1255	170	1085
2024/25	1285	100	1185
2025/26	1425	95	1330
2026/27	1278	95	1183
2027/28	1034	-	-

4. Delivery Constraints

Policy AF 2 requires that every development will require a s106 development contribution to help finance a package of measures designed to ensure that there is no adverse impact on the integrity of Ashdown Forest SAC and Lewes Down SAC. However, as explained in our representation to Policy AF 2, there is yet to be any evidence presented that any economic mitigation will achieve the necessary result. As the mitigation is unknown, so is the scale of the s106 contribution which may render the development unviable. For the sites allocated in this plan already granted conditional approval, construction cannot until the mitigation has been accepted by the nature conservation body and the s106 contributions determined – this timescale is completely unknown. A further delay could arise should the mitigation take time to implement.

5. Summary

1. The previous highest five year average delivery achieved in the district since 1990 was 647 units/year. Over the last five years, the current housing completions average 564 units/year. To achieve the housing trajectory in this plan, delivery has to rise to 852 units in 2019-20, then 1,239, 1,435, 1,256, 1,255 units, or at an average of 1,207 units/year.

We do not consider that the market is either capable or will deliver 86% more units in the next five years than it has achieved in the best five years since 1990 and 213% more units than it has achieved in the past five years

2. The 2013 Core Strategy has not yet reached its planned annual total of completions from allocations five years after adoption. The Council anticipates that it will not be until year 6 i.e. 2018-19, that the average required rate from allocations of 450 units/year will be achieved. However, this plan's strategy shows that the necessary average rate of 950 units/year will be exceeded in the year following adoption.

As it took six years for the housing delivery to reach the average number of unit completions required by the Core Strategy, we do not consider that the increased rate required by this new plan will be achievable within a year of adoption of the new plan.

3. We do not consider that the market will be able to absorb the very high number of units planned to be delivered at Stone Cross and Hailsham resulting in a much reduced rate of delivery in the area where large growth is planned.

4. The current unknowns regarding the necessary mitigations needed to ensure no adverse effect from traffic emissions on the Europa 2000 sites, the cost of these and the time needed for implementation can only provide a brake on development. Until such time as all details of the mitigation is known, any housing trajectory is pure speculation.

5. There is no evidence to show that the house building industry can achieve the planned quantity of dwellings considering that this is far greater than has previously been achieved.

Chapter: 6, Policy Number: WLP 13 – Review of the Wealden Local Plan

In order to be effective and justified, CPRE Sussex would like to see greater clarity with regard to the reasons for triggering a review. For example;

1. The capacity of the two Hailsham treatment works restricted the 2013 Core Strategy housing numbers to a figure less than that contained in the 2006 South East Plan. It is not clear whether 'the

solution' stated in paragraph a) of this policy is to permit the Core Strategy constraint to be removed or to permit the growth identified in the WLP. This should be clarified.

2. As we explained within our comments to Policy WLP 12, it is highly unlikely that the numbers of dwellings shown in the trajectory for the early years of the plan will be achieved. We accept that we have suggested that the trajectory be amended in order that it becomes more achievable, but as this policy wording currently stands, any failure to meet the trajectory would trigger a review. It is suggested that this paragraph b) be reworded to provide some leeway in the delivery against the (revised) trajectory before a review becomes necessary.

3. Currently, it is the Council's position that an off line A27 is not needed during the life of the plan despite the existing road operating well above its design capacity and causing extended and unpredictable journey times. We suggest that in paragraph e) that the parameters necessary for an offline road are included as the words 'considered necessary' are far too imprecise. We would also point out that it is most unlikely that even if a decision was made in the not too distant future to proceed with an offline A27, it could not be provided within the plan period. It is clear that with the level of growth proposed in the plan for South Wealden, that without an offline A27, the current extended and unpredictable journey times, not just on the A27, but within the A27 corridor, are only going to get worse. However, for the avoidance of doubt, CPRE Sussex is not in favour of an offline A27 due to the severe effect on the Low Weald countryside.

Therefore, we consider that specific conditions should be included within this Policy wording to provide clarity regarding exactly when a review will be triggered.

Chapter: 7, Policy Number: INF 1 – Effective provision of infrastructure

CPRE Sussex supports the intent expressed in the opening sentence of this policy, but we are very concerned that it is not capable of implementation, in effect, it is not effective as the necessary delivery partners have not confirmed their commitment to any proposals.

The only reference to the Infrastructure Delivery Plan (IDP) is in the final paragraph which is concerned with monitoring and review which is inadequate to provide certainty that the intent expressed in the first sentence of this policy will be delivered.

To ensure delivery of the required infrastructure, the policy wording should explicitly link this policy with the Infrastructure Delivery Plan (which in itself, needs to be more explicit with regard to which infrastructure improvements are needed for each allocated site). Thus, we propose that the initial paragraph in this policy is replaced with:

"To ensure that there is capacity in the existing local infrastructure to meet the requirements generated by the proposed development, granting permission will be conditional upon an agreed and confirmed programme of delivery with each required infrastructure provider to ensure that the necessary improvements are delivered at the time they are needed. The required infrastructure is that detailed in the [amended and improved] Infrastructure Delivery Plan."

Improvements will be needed to the Infrastructure Delivery Plan to ensure that the current infrastructure deficit does not worsen through the delivery of growth envisaged in this local plan.

Chapter: 7, Policy Number: INF 3 – Transport Infrastructure

CPRE Sussex considers the bulk of this policy to be merely a statement of intent with no commitment to deliver any strategic infrastructure improvements. It is thus not effective.

Improvements that are within the capability of the market to deliver e.g. g) and h), cannot be described as strategic transport infrastructure and are measures that can be simply included as planning conditions.

The policy wording is non-specific e.g. paragraph a) states:

‘Road and rail improvements required to deliver growth in the South Wealden Growth Area:’

We suggest that as written, this paragraph is meaningless.

“Under the heading of Future Studies, the Council lists 12 road corridors where either studies are to be undertaken or improvements will be required. We believe to be effective, these studies should have already been completed and evidence in the Infrastructure Delivery Plan (IDP) which would then be referenced by an improved wording in Policy INF1.”

Chapter: 8, Policy Number: EA1 - Biodiversity

CPRE Sussex strongly supports the purpose of this policy but is concerned that it does not go far enough and does not specifically and clearly aim for **measurable net gains for nature**.

In the paragraph headed ‘Biodiversity on Allocated Sites’ we consider that the words ‘where possible’ should be removed from the second line and the words ‘where appropriate’ should be omitted from the third line. Retaining these words renders this paragraph in conflict with the intent specified in the opening paragraph of this policy. The second sentence in this paragraph should be amended to:

“In exceptional circumstances where the loss of existing wildlife corridors and stepping stones would render the development uneconomic, compensatory measures will be required to both protect and enhance the network to help ensure a net gain in biodiversity.”

Chapter: 8, Policy Number: EA2 – Ashdown Forest SPA

CPRE Sussex consider that the requirements within the body of this policy do not necessarily achieve the requirement stated in the first paragraph i.e. the policy is not effective.

There is no evidence submitted as part of the plan that demonstrates that SANGs and SAMMS will be effective in diverting people from the forest. Unless they are redirected then the purpose of the mitigation (to reduce visitor disturbance) will not be achieved. The precautionary principle has not therefore been applied by the council. The Council has undertaken visitor surveys in order to be able to estimate the number of visitors to Ashdown Forest but has not yet confirmed that the visitor effects resulting from recent growth has been adequately mitigated by SANGs/SAMM.

However, the Council requires that the effectiveness of bespoke mitigation is demonstrated when this is proposed as an alternative to contributing to SANGs and/or SAMM, despite not demonstrating the effectiveness of their mitigation on allocated sites. Unfortunately, we believe that Natural England, who devised the SANG and SAMM strategy, is unreceptive to questions of the effectiveness of their strategy and would prefer that this is not questioned.

Therefore, we do not consider this policy sound as there is no evidence to demonstrate that the proposed SANG/SAMM strategy is effective and thus does not comply with the habitats Regulations 2017.

Chapter: 8, Policy: EA3 – Green infrastructure

CPRE Sussex supports the principle of this policy but believe that in order to be positively prepared it should be broader in scope and manage GI in a strategic way. We would like to see a commitment to working with partners to develop a GI SPD which will plan and manage GI on a wider scale.

We would like to see the word “*expected*” in the first line replaced with “*required*” to make this policy effective.

Chapter: 9, Policy Number: EA4 – Landscape Character

CPRE Sussex welcomes and strongly supports Policy EA 4, in principle, particularly its being robust; “*development will only be permitted*”, its being based on existing landscape character assessments, including Historic Landscape Character Assessment and the inclusion of the reference to tranquility.

However, in order for Policy EA 4 to fully satisfy the requirement of paragraph 156 of the NPPF for local plans to set out strategic policies to deliver the conservation and enhancement of the natural and historic environment, including landscape, we would request that “and/or historic” be inserted between “Natural” and “features” in clause d) and that the final paragraph of the Policy should require applicants to submit a Landscape and Visual Impact Assessment with proposals for development (in the countryside).

Also, this final paragraph requires a demonstration that that “valued landscape features and components will be protected”, which is not only imprecise (what features and components are “valued”) but it then goes on to allow adverse landscape impacts if they “can be mitigated”, which is also contrary to requirement for “protection”.

In addition, there is no actual requirement in the Policy for any adverse effects to actually be mitigated, only for there to be the capability to mitigate them, and for any mitigation to be commensurate with the surrounding area etc.

CPRE Sussex’s preferred wording would be:

“Landscape and Visual Impact Assessments will be required to demonstrate the anticipated effects of development proposals on visual amenity and landscape character, particularly on those key characteristics identified above. Where such an Assessment demonstrates that the development proposals could be harmful to visual amenity and/or landscape character, the proposals must include measures to avoid, minimise or mitigate that harm in ways that are themselves commensurate with the prevailing landscape character and which contribute to local distinctiveness”.

We believe that the Ashdown Forest merits its own separate policy.

We are unsure as to actually how the council proposes to monitor the condition of landscape character?

Chapter: 9, Paras 9.3 and 9.11

Paragraph 9.3 – 8th line should be “*distinctiveness*”. The 10th line of this paragraph refers to paragraphs 115 and 116 of the NPPF. It is understood that this Plan is to be submitted before the deadline for examination of local plans against the original NPPF, but the revised NPPF will be the relevant NPPF for the adopted local plan, so it should refer to paragraph 172 or just to the policies for AONBs in the NPPF.

Paragraph 9.11 –CPRE Sussex welcomes and supports the recognition of the importance of tranquility in this paragraph.

Chapter: 9, Para 9.15

Paragraph 9.15 reads: “It is therefore unlikely that further major development over and above that identified in this Plan will rarely be justified in the public interest”.

This sentence contains a double negative and therefore needs amendment – either *“It is therefore likely that further major development over and above that identified in this Plan will rarely be justified in the public interest”* or *“It is therefore unlikely that further major development over and above that identified in this Plan will be justified in the public interest”*.

Chapter: 9, Policy Number: EA5 – High Weald AONB

Policy EA 5 uses “seeks to” or “seek to”. We believe that this is too weak, and that the Policy should be firmer i.e. “enhances natural beauty”, “conserve and/or enhance local distinctiveness.....” and “conserve wildlife and cultural heritage”

We would like reference to the NPPF (para 172 – previously 116) requirement that applications for major development in the AONB will be refused except in exceptional circumstances, and where it can be demonstrated that the development is in the public interest to be made explicit in the policy, not just the supporting text.

Chapter: 9, Policy Number: EA6 – Setting of the South Downs National Park

Whilst we support the principle of this policy, it requires that development within the setting of the National Park should be consistent with National Park purposes. We believe that “Should be” is too vague – will planning permission be granted if development proposals are not consistent with those purposes? Also the policy says development will only be permitted where it does not “detract from or cause detriment to.....”, but then says “not significantly harm”, so is some harm acceptable or not ?

CPRE Sussex suggests that Policy EA 6 be revised as follows:

“Development within land that contributes to the setting of the South Downs National Park will only be permitted where it is consistent with National Park purposes i.e. it does not detract from, or cause detriment to, the visual and special qualities (including dark skies), tranquillity and essential characteristics of the National Park. In particular development should not adversely affect transitional open green spaces between the site and the boundary of the South Downs National Park, and the views, outlook and aspect, into and out of the National Park by virtue of its location, scale, form or design.

Assessment of such development proposals will also have regard to the South Downs Partnership Management Plan and other adopted planning documents and strategies.”

Chapter: 10, Policy EC1 – Existing Employment Land

CPRE Sussex consider that sub-paragraph c) in this policy should be re-worded to prevent loss of employment land to be accepted under this paragraph unless the suitable alternative location is on brownfield land that complies with other policies in this plan. Thus, we suggest the following wording for sub-paragraph c):

“c) There is a market use, with equivalent or greater equivalent floorspace, that can be secured on brownfield land and delivered whilst complying with other policies in this plan in a suitable alternative location at a reasonable distance.”

Chapter: 13, Policy SWGA 3 Strategic Transport Infrastructure

To be effective we would like tighter wording of SWGA 3 such as *‘it will be necessary to deliver the following strategic transport improvements:’* The word ‘consider’ is too vague.

This policy refers to a number of further studies which are needed. Should these not be done before making the allocations in order to inform the IDP?

Chapter: 13, Policy SWGA 7 – Pevensey levels hydrology

We are concerned about the phrase ‘alternative foul water drainage system.’ In relation to waste water discharge it should be noted that package treatment works are unlikely to meet the ‘in water’ quality requirements of Pevensey Levels and therefore will not be licensable by the Environment Agency. It is essential therefore that that all development sites will be required to provide a connection to the sewerage system, should be adhered to.

Chapter: 27, Policy RAS1 – Core Areas

CPRE Sussex supports the overall intent of this policy in preventing ‘sprawl’ and directing development towards more sustainable locations but would like a tightening of the restrictions around development in the countryside to ensure that the policy is effective. We would like the word ‘adjacent’ to be replaced with ‘contiguous.’

As per our comments to WLP 10 and WLP 5, we do not understand how the ‘settlement capacity’ has been determined, so cannot be sure that it is justified to allow brownfield development to exceed the capacity. We are concerned that the policy wording for RAS1 could lead to brownfield sites being deliberately left undeveloped until the settlement capacity had been reached. As worded, the first paragraph of this policy permits greenfield development to be accepted up to the settlement capacity and then brownfield development is permitted to exceed the settlement capacity. It is universally known that developers prefer greenfield land over brownfield for development. Thus, it is far more likely that developers will ignore any brownfield land within or adjacent to the Core Area until they have developed the greenfield sites up to the settlement capacity. Only then will they consider whether or not to develop any qualifying brownfield sites, which is contrary to paragraph 118 of the revised NPPF. The policy needs to be worded differently in order to prevent this.

We do not consider that the settlement capacities for each Core Area are justified as there is a lack of evidence concerning the derivation of these capacities. Similarly, we accept that the windfall allowance for each Core Area has apparently been tested against Policy AF 1, there is a dearth of evidence to justify the quantum of each allowance.

Chapter: 27, Policy RAS2 – New Dwellings in the countryside

CPRE Sussex is broadly in support of this Policy which we consider to be necessary to ensure that housing is directed to sustainable locations instead of isolated homes in the countryside which will be completely car-dependent. However, the policy seems to allow additional development to that set out in WLP 1 without explaining how this relates to windfall allowances?

Policy RAS2 should make development in the countryside subject to policies EA5 (High Weald AONB) and EA6 (Setting of the South Downs National Park) which reflect statutory requirements for the conservation and enhancement of the natural beauty and landscapes of National Parks and Areas of Outstanding Natural Beauty as given effect by NPPF 2012 paras 115/6 and by NPPF (2018) para 172.

RAS2 also appears inconsistent with the statement in Spatial Objective 10 (*Rural Housing*) that: “*Some limited development will be allowed on brownfield sites in smaller unsustainable villages, which will allow movement in the local housing market without impacting upon rural character*” as RAS2 makes no reference to the use of brownfield sites for new countryside dwellings.

We suggest that there is some reconciliation needed between RAS2, RAS3, RAS8 and RAS4.

The conditions stated as conditions precedent to permitting new development in the countryside fail fully to reflect the terms for isolated development in the countryside set out in NPPF 2012 para 55 and by NPPF (2018) para 79.

The layout of RAS2 should be clearer: Paras (d) and (e) are not, we think, intended to be sub-sections under the heading of “New Dwellings in the Countryside”. As we understand it each of the sections “Replacement Agricultural Buildings” (para (d)) and “Replacement dwellings” (para (e)) is an independent section that is not dependant on paras (a) – (c) above them. If that is so, the para (d) and (e) references should be deleted to avoid confusion. However, if para (e) is not (as we think) intended to be covered by the opening words of RAS 2, it needs to be made clear in the text that the policy that para (e) contains for approving “Replacement dwellings” is subject to policy AF1 (and, we argue above, to policies EA5 (*High Weald AONB*) and EA6 (*Setting of the South Downs National Park*)).

We also suggest that the heading ““Replacement Agricultural Buildings” be changed to “Replacing Agricultural Buildings with Dwellings” as this seems to be its purpose and distinguishes it from policy RAS3 which deals with the conversion of agricultural and other rural buildings for non-dwelling purposes.

RAS2 should make acceptable the conversion of suitable rural buildings into affordable homes (as defined). RAS2 needs to incorporate a requirement that conversions and rebuilds seek opportunity for energy efficiency improvements in order to conform to NPPF (2012) para 95 bullet. 2)

Chapter: 28, Policy RAS3 – Conversion of rural buildings

CPRE Sussex is broadly in support of this Policy which we consider to be necessary to ensure that development is directed to sustainable locations. However, the policy seems to allow additional development to that set out in WLP 1 without explaining whether this is part of a windfall allowance. For example, in para (a) are these homes be part of a windfall allowance?

Although the Plan should be read as a whole, so that this policy should be read with Policy RAS 2, I would suggest that and a new section be added at the end to make it clear that Policy RAS 3 does not trump Policy RAS 2 and that the criteria of both policies need to be satisfied, for example, “The conversion of existing rural buildings to new residential uses will only be permitted where the above criteria are satisfied and the proposal complies with Policy RAS 2”.

RAS3 also appears inconsistent with the statement in Spatial Objective 10 (*Rural Housing*) that: “*Some limited development will be allowed on brownfield sites in smaller unsustainable villages, which will allow movement in the local housing market without impacting upon rural character*” as RAS3 makes no reference to the use of brownfield sites.

RAS3 should make acceptable the conversion of suitable rural buildings into affordable homes (as defined). RAS3 needs to incorporate a requirement that conversions and rebuilds seek opportunity for energy efficiency improvements in order to conform to NPPF (2012) para 95 bullet. 2)

Chapter: 32, Policy RAS7 – Protecting Individual and Village Shops and Public Houses

CPRE Sussex is broadly in support of Policy RAS7, however as it is currently worded it is not justified by reason of its failure to achieve the purposes of the text at para 32.15 of promoting the creation and retention of community facilities as expected in NPPF (2012) paras 17 and 28 and in NPPF (2018) paras 92 and 121. RAS7 should be cross-referenced to policy HWB2 (*Community Facilities*) and should make it clear that public houses and community stores should be encouraged to offer additional facilities and meeting places, and any change of use permission that may be required should generally be supported. Policy RAS7 needs to give more emphasis to encouraging the development of these community needs.

Chapter: 36, Policy HG2 Provision of Affordable Housing

CPRE Sussex is broadly in support of Policy HG2, however it should more closely reflect the requirements of the NPPF. For example, ensuring the policy is compatible with the NPPF 2018 definition of 'Affordable housing.' We are also concerned that the evidence base is inadequate to justify policy HG2 given that the calculations on which your council relies do not test the 35% affordable home target against the requirements of the new definition. It is not therefore possible to assess the reasonableness of the proposal in policy HG2 to require 35% of future homes to be built on larger sites as affordable homes; as a result of this, and the inconsistencies between HG2 and NPPF (2018) paras 62-64, it will not be possible to ensure that unchallengeable due weight will be given to HG2 during the Plan's life.

Our concern as to the appropriateness of the 35% target is increased by reason of (a) the admission in para 5.3.4 of the Housing Background Paper that it will not meet the full need for affordable homes within the District because no adjustment has been made for the fact that some (actually a lot of) homes are expected to be built on small sites on which no affordable homes will be required, and (b) the exposure to viability challenge, an exposure heightened by both the conclusion that financial viability in the crucial southern part of the District is "constrained" and by the large number of anticipated windfall developments on which the Plan relies where viability will not have been assessed.

We are surprised that, in addressing tenure mix, Policy HG2 makes no allocation as between shared ownership and rented accommodation within its 20% expectation for intermediate homes, and query whether this is compatible with NPPF (2012) para 159 or NPPF (2018) paras 62 and 64 (Para 62 also appears to require Starter Homes to be treated as affordable homes, but these are not mentioned in HG2 and CPRE's position would be that the Council's core commitment should be to provide a sufficient level of affordable homes to meet community needs that stay within the community as affordable homes.) At a practical level a specific target for the proportion of shared ownership homes seems desirable to support policy HG5 (Rural Exception Affordable Housing), as to which see our comments below re that policy. To avoid ambiguity HG2 should make clear that it applies to affordable homes built under HG5 (*Rural Exceptions*).

We would like to see the Council commit during the course of its Plan's examination to prepare, consult on and issue a viability assessment SPD that sets out in more detail than policy HG2 the Council's approach to determining financial viability, and limiting the circumstances in which a site's viability to deliver the level of affordable homes set out in the Plan can be challenged after its allocation under the plan or, in the case of windfall sites, after outline or full planning permission has been granted. The SPD could also valuably deal with the circumstances in which off-site provision or a financial contribution in lieu will be acceptable – a requirement of NPPF (2012) para 50 and NPPF (2018) para 62(a).

Chapter: 36, Policy HG3 Design of Affordable Housing

If there is to be a separate design standard set for affordable homes, as HG3 indicates, its soundness requires the setting of minimum space and energy efficiency standards to be built into HG3 or by cross reference to other relevant Plan policies. Please also see our comments re chapter 38 and policy BED1

Chapter: 36, Policy HG5 Rural Exception Affordable Housing

We strongly support the principle underlying this policy, which is a vital one that can help reduce the particular problem of rural housing unaffordability by increasing the stock of affordable homes for local people in rural areas; but in our view policy HG5 is not sufficiently positively prepared to be sound in its present form.

Well planned small-scale schemes of affordable homes can be of great value to smaller rural communities where a local need often exists to keep viable communities together and the affordability gap tends to be greater. Their sustainability is often justified by ensuring local villagers can remain in the local area maintain a local labour force. In CPRESx's opinion, a main advantage of exception sites is that lower land prices should be achievable, providing a form of subsidy for the provision of housing for local need that can be challenging in some locations.

Policy HG5 should be more positive and encouraging of the use of small rural exception sites designed for local occupation to boost its affordable housing supply, not least within those Core Areas identified in policy RAS1. This would be in line with the NPPF (2018) para 71 requirement that exception sites *are "adjacent to existing settlements, proportionate in size to them."* Without active promotion and commitment exception sites rarely get developed. The Council should be committing in HG5 to work actively with parish councils to identify opportunities, and through sponsorship of community land trusts. An active policy can be further supported by the Council making use of the Designated Protected Area scheme to ensure that shared ownership properties are built and on terms that retain them within community so that they are not sold on a basis that loses them to the private sector.

Policy HG5 also fails to include a requirement that affordable homes built on rural exception sites must be developed on a basis that ensures that they remain within the community and cannot be sold on to outside private buyers, thereby undermining the whole purpose of their creation as a community asset.

CPRESx does recognise that there is some evidence that a cross-subsidy resulting from a small number of market homes on exception sites could occasionally provide the only means for the Council to deliver rural affordable homes, and that each case has to be assessed on its own merits. Equally the danger of the availability to build market homes runs the risk of increasing the land value and undermining the policy's principal objective.

In our view a more flexible approach is required than HG5 currently offers if it is to be a positive policy. It should not start with its assumption that 10% of exception site housing can be market homes. The general rule should be for 100% affordable homes. Exceptions should be permitted only where market housing is demonstrated as essential to make a scheme viable (after consideration of all affordable tenure options); but where non-viability is demonstrated we would have no objection to up to 20% of market homes if necessary to achieve the scheme development.

The other proposed preconditions to development in HG5 are supported as appropriate, however greater alignment could be given to NPPF para 71, for example by reference to policies relating to landscape designations.

Chapter: 36, Policy HG11 Housing Space Standards

There is no justification (or NPPF requirement) for any exception to the requirement for minimum statutory space standards to be met in the design of all buildings.

Chapter: 37, Policy HWB1 Open Space, Sports and Recreation

Nowhere in the Plan is the connection made between public health and wellbeing on the one hand and access to open countryside and nature on the other, despite the wealth of evidence of the vital connection between the two (Not only is this connection missed from this chapter 37; it is also absent from spatial objectives 7 (Natural Environment) and 12 (Health and wellbeing of communities), and from chapter 8 (Environmental Assets) except by way of passing reference at para 8.21.) There is no justification for ignoring that vital role that the countryside and its biodiversity, including protected areas such as Areas of Outstanding Natural Beauty, RAMSAR sites, SSSIs and Local Wildlife Sites, play in the physical and mental health and wellbeing of Wealden's residents and visitors. None of these areas are treated as Open Spaces for the purposes of the Open Spaces Study (see section 5 of that Study). Nor are they so regarded for the purpose of this chapter 37 or policy HWB1.

Human health and well-being are core components of the social aspect of sustainability (NPPF (2012) para 7 and NPPF (2018) para 8(b)) and the promotion of access to the open countryside and to nature is required by national planning policy.

HWB1 should;

- promote the conservation and improvement of the natural environment on account of its beneficial role in maintaining good public physical and mental health and wellbeing, or
- promote the active but sustainable use of the countryside, its biodiversity and its geodiversity for that purpose, to support the acknowledgement at para 37.4 that *"The provision of accessible services and facilities to areas which encourages walking and cycling, with consequential health benefits, together with inclusive design encourages social interaction with associated mental health benefits."*

That is a significant omission of planning policy that requires correction not only in chapter 37 but also in chapter 8 and spatial objectives 7 and 12.

Chapter: 38, Policy BED 1 Design

BED1 is not sound insofar as it fails to address at all the NPPF requirement for energy efficiency, greenhouse gas mitigation and noise attenuation to be treated as key aspects of good design (see e.g. NPPF (2012) para 97, bullet 2 and NPPF (2018) para 150(b)), or to set any minimum standards or target by which they are to be measured (NPPF (2018) para . Whilst this issue requires reference within policy BED1, we would expect the promised design SPD to address these aspects in more detail. We also would like a commitment that within the SPD design policies will be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development.

In our view any effective design policy must provide maximum clarity about design expectations at an early stage in order to establish a framework for creating distinctive places within the District with a consistent and high quality standard of design, as is now required by NPPF (2018) para 126. To this end we call on the Council to identify within BED1 an independent reference standard (such as, for domestic properties, Home Quality Mark level 4) by which design quality will be assessed and to amplify its approach to using that within the promised SPD. The use of such an assessment tool to enable a planning authority to satisfy its NPPF high quality design obligations and maximise clarity of expectation and process is positively encouraged within para 126.

BED1 also lacks a necessary policy requirement for the design of accommodation intended for Wealden's high and increasing number of elderly residents to be suitably designed for their specific needs.

For greater consistency with Chapter 12 of the NPPF (2018) we would like the addition of the phrase *"Applications that can demonstrate early, proactive and effective engagement with the community will be looked on more favourably than those that cannot."*

Chapter: 38, Policy NE1 Noise pollution

We question the soundness of policy NE1 on the basis that it does not differentiate between the degrees of acceptability of noise pollution in different areas. Areas of tranquillity and nationally designated landscapes are treated equally with what the policy calls *"residential amenity"* (which we assume must be intended to mean everywhere else unless there is a vacuum in the policy). That should not be the case: higher standards of noise avoidance are required in tranquil and designated areas. There should be a reference to EA4, EA5 and EA6 (see, for example, the emerging policies for the South Downs National Park Local Plan.)

The reference to light pollution in policy NE1 is unnecessary - policy NE3 addresses that issue.

Chapter: 38, Policy NE2 air pollution

Policy NE2 is not positively prepared. Its proposal that new development must be *"conforming with the objectives set out in the latest Air Quality Strategy for England"* is unjustifiably limited in scope and ambition, and vague in meaning (the words "objective" and "latest" are both ambiguous). It fails to cross-reference and subordinate itself to the policies in Chapter 5 designed to address (inter alia) the air pollution requirements of the Habitats Regulations as they affect Natura 2000 sites.

Chapter: 39, Policy NE 7 – low carbon and renewable energy

Policy NE 7 is not positively prepared and is not consistent with national policy vis a vis the scope of the Council's obligations to mitigate climate change. Action to reduce carbon, nitrogen dioxide, methane and other emissions in order to meet climate change targets is action that has to take place largely at local level, and the planning system is a principal regulatory tool to achieve the required behavioural changes. That requires comprehensive and positive planning policies at local planning authority level.

The policy, as it stands, does not therefore do enough to meet the requirement of Section 19 (1A) of the Planning and Compulsory Purchase Act 2004 which states that *"Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change."*

Whilst Policy NE7 does offer some support in principle for low and renewable energy schemes, it fails to address the NPPF requirement on LPASs to plan to achieve a *“radical reduction in greenhouse gas emissions, minimise vulnerability and improve resilience”* (NPPF (2012) para 93/NPPF (2018) para 148) and is therefore non-compliant with national policy to that extent. Unless and until the Council sets a suitably ambitious (but realistic) benchmark target by which a reduction in carbon and nitrogen emissions can be measured it will not be possible to assess whether the Council’s draft Plan policies are sufficient and suitable to achieve the requirements of NPPF paras 93 or 148

Chapter: 40, Paras 40.3 to 40.9

Paragraph 40.3 –It would be helpful if this explained that listed buildings, Registered Historic Parks and Gardens and Scheduled Monuments are “designated” heritage assets, and relocate the reference to “sites of local archaeological interest” to paragraph 40.5 or add a new paragraph on non-designated heritage assets (given that paragraph 40.5 relates to the historic environment evidence base rather than non-designated assets specifically).

Paragraph 40.5 contains an error in that it cites “2373” as the number of both designated and non-designated heritage assets on the East Sussex Historic Environment Record – the second 2373 should presumably be 9127.

It would be helpful to reference footnote 63 of the NPPF (paragraph 139 of the 2012 NPPF) which states that *“Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets”* in paragraph 40.5.

Paragraph 40.7 – It is unusual to say that *“The landscape has influenced the pattern of fields and settlements”* – the pattern of fields and settlements has influenced the landscape, or is the landscape !

Paragraph 40.9 – CPRE Sussex request a reference here to the East Sussex Historic Landscape Character Assessment, which is the most obvious source of information about the historic landscape.

Chapter: 40, Policy HE 1 – Historic Environment

CPRE Sussex supports Policy HE 1 in principle, but considers it not to be fully consistent with paragraphs 126 and 156 of the NPPF.

The second paragraph states that “Development proposals affecting heritage assets will not be supported where they cause substantial harm to either the asset or its setting”. It then goes on to state *“Where development will cause harm to the significance of a heritage asset or to its setting, it will be only be supported where...”*

The Policy is therefore internally inconsistent. It also seeks to give the same protection to non-designated heritage assets as to designated assets and to the setting of an asset as to the asset itself, neither of which is consistent with the NPPF.

CPRE Sussex suggests that, to be consistent with the NPPF, the second paragraph of Policy HE 1 be reworded as follows:

Development proposals that would lead to harm to the significance of designated heritage assets, including development within the setting of such assets, will be refused unless, exceptionally (or, in the

case of heritage assets of the highest significance, wholly exceptionally), the harm is clearly and convincingly justified by public benefits (substantial public benefits in the case of substantial harm) arising from the development that could not otherwise be achieved and the harm is minimised and, where possible, mitigated (e.g. through archaeological investigation and recording, although the ability to record archaeological evidence will not be a factor in deciding whether the harm should be permitted).

Development proposals affecting the significance of a non-designated heritage asset (except assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, which will be considered in accordance with the paragraph above) will be assessed having regard to the scale of any harm or loss and the significance of the asset. (Although this is not really necessary given Policy HE 5).

Clause d) should refer to the “*special interest, character and appearance*” of conservation areas.

Clause f) could be split into two – the first sentence essentially deals with heritage at risk, although it could specifically highlight assets identified as being at risk as a priority, whereas the subsequent sentences relate to changes of use of heritage assets.

Paragraph 126 of the NPPF requires “*Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats*”.

To be consistent with this requirement of the NPPF, the Plan should be more explicit in its consideration of heritage at risk (there are currently three assets at risk within the District – the Parish Church of All Saints in Waldron, Kidbrooke Park, Forest Row and High Rocks Camp, Frant.

However, the Historic England Register does not include Grade II secular buildings outside London) and other assets may be added to (or taken off) the Register during the life of the Plan.

Clause h) should require the research to be placed within a public archive.

Paragraph 156 of the NPPF requires local plans to include “*strategic policies to deliver the.....conservation and enhancement of the natural and historic environment*” and paragraph 126 of the NPPF requires local plans to set out a “*positive strategy for the conservation and enjoyment of the historic environment*”. Although Policy HE 1 is a strategic policy we do not consider that it is sufficiently proactive or positive.

We would like to see reference to proactive measures in the Policy (rather than just the “positive management of development affecting heritage assets” which is reactive) to actually deliver the conservation and enhancement of the historic environment.

Such measures could include the preparation or review of Conservation Area Character Appraisals and/or Management Plans, the use of Article 4 Directions where inappropriate development is taking place in Conservation Areas under permitted development rights and/or the undertaking of a survey of Grade II listed secular buildings to ascertain whether any are at risk of neglect, decay or other threats.

Chapter: 40, Policy HE 3 Sites of Archaeological Interest

In order to fully comply with National Policy the phrase “*not justified*” in clause c) – should read “*not possible and their loss or harm to their significance is clearly and convincingly justified by public benefits that would arise from the development that could not otherwise be achieved*”.

Chapter: 40, Policy HE 5 Non-Designated or Locally Designated Built Heritage Assets

The Policy should clarify that assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments will be considered in accordance with Policy HE 1 e.g.

Development proposals affecting the significance of a non-designated heritage asset (except assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, which will be considered in accordance with Policy HE 1) will be assessed having regard to the scale of any harm or loss and the significance of the asset.

Chapter: 40, Policy HE6, Historic Parks and Gardens

Policy HE6 is unsound because it is ambiguously drafted. Paras (a) to (c) are described as cumulative, but paras (b) and (c) are in fact mutually exclusive.

Chapter: 41, Policy WE 1 - Waste

The policy of minimising off-site disposal is appropriate only for inert, non-toxic waste. That should be reflected in a minor change to policy WE1

Chapter: 42, Policy COM1 – Communications infrastructure

Policy COM1 is not justified in its present form. The last sentence fails to strike the necessary balance between encouraging the much needed expansion of improved communications infrastructure and environmental conservation. Mid Sussex DC's recently adopted Local Plan Communications Infrastructure policy DP23 offers a more balanced policy which includes the following:

"When considering proposals for new telecommunication equipment the following criteria will be taken into account:

- **The location and appearance of the proposed apparatus and associated structures should seek to minimise impact on the visual amenity, character or appearance of the surrounding area. On buildings, apparatus and associated structures should be located and designed in order to seek to minimise impact to the external appearance of the host building;**
- **New telecommunication equipment should not have an unacceptable effect on sensitive areas, including areas of ecological interest, areas of landscape importance, Areas of Outstanding Natural Beauty, the South Downs National Park, archaeological sites, conservation areas or buildings of architectural or historic interest and should be sensitively designed and sited to avoid damage to the local landscape character;**
- **Preference will be for use to be made of existing sites rather than the provision of new sites."**

In our view the soundness of COM1 requires the consideration of equivalent environmental considerations in order to satisfy NPPF requirements for the conservation and enhancement of the natural environment. Implementation of equivalent protections should not have the effect of adversely affecting the underlying worthy objective of improving the network.

Chapter: 19, Policy RUGA 2 – Land South West of Ghyll Road

CPRE Sussex consider this policy for a 103 dwelling development in the High Weald AONB is not justified nor is it consistent with the NPPF.

The site, Land south west of Ghyll Road, is outside the development boundary and is wholly within the AONB on the edge of the urban area of Heathfield. It therefore gains protection from paragraphs 170, 171 and 172 of the revised NPPF. The WLP Landscapes and Ecological Study 2017 concludes that the site has a moderate to high ecological value and a high landscape sensitivity and a very high landscape value.

NPPF paragraph 170 requires that policies should:

- recognise the intrinsic character and beauty of the countryside
- protect and enhance valued landscapes,
- minimise impacts on and provide net gains for biodiversity

Whilst NPPF paragraph 172 requires:

‘Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues’.

We consider that the further requirements in NPPF paragraph 172 regarding determination of applications also need to be satisfied as this site is being put forward as an allocation. It would otherwise be perverse for a site to be considered suitable in a plan to be an allocation but then fail to meet the assessments within this paragraph when presented for determination. These assessments are:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

Lastly, paragraph 172 does not permit a major development to be granted approval in the AONB in other than exceptional circumstances.

We consider that this 103 dwelling site south west of Ghyll Road is a major development due to its very high landscape value for which development will have a significant adverse impact on the High Weald AONB. No exceptional circumstances have been submitted to claim an exception. Neither have we found any evidence to demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty in considering this site as suitable for an allocation, or that an assessment has been made about whether this allocation could be made elsewhere?

In addition, we do not consider that development of this site could:

- protect and enhance valued landscapes,
- minimise impacts on and provide net gains for biodiversity

Furthermore, nowhere in this plan, or the Sustainability Appraisal Report March 2017 and August 2018, or any of the other supporting documentation, is any consideration given to the three points a) – c) above.

The mitigation measures proposed in Policy RUGA2 may partly ameliorate the damaging effects of the development, but are incapable of fully mitigating the damage to the AONB landscape or biodiversity of the site. Notably, the mitigation measures completely fail to enhance the landscape and scenic beauty.

The sustainability appraisal for the revisions to the development boundary fails to take account of the enhanced status of AONB sites and the boundary should not be extended to include this site.

Clearly, this allocation fails to meet the requirements of paragraphs 170 – 172 of the NPPF with regard to the enhanced status and protection to be afforded to the AONB. Policy RUGA 2 should therefore be deleted from the plan.

Chapter: 19, Policy RUGA 1, Land South of Burwash Road

CPRE Sussex consider this policy for up to 30 dwellings in the High Weald AONB could constitute major development and therefore is not justified nor is it consistent with the NPPF.

CPRE Sx does not consider that the AONB, as a nationally important landscape, is a suitable location for major development. The National Planning Policy Framework (para. 172) states that ‘Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.’ Paragraph 172 further states that ‘planning permission should be refused for major development other than in exceptional circumstances’.

In the ‘Development in the High Weald AONB background paper’ the three tests set out in the NPPF regarding major development within AONBs are considered, however whilst the need for the development has been considered, this is relating to the requirement for additional housing within Heathfield; it is not clear whether appropriate consideration has been given to providing this level of housing in a different area with due regard to avoiding the impacts on the AONB. The consideration of any detrimental effect on the environment and the landscape from this allocation relates to visual impact only. No consideration is given to the landscape impact itself, which will include direct loss of features that are special qualities of the AONB. This allocation does not meet the exceptional circumstances test and therefore RUGA 1 should be deleted from the plan.


Chapter: 19, Policy RUGA 8, Land at Foxhole Farm

CPRE Sussex does not find the proposed allocation at Foxhole Lane, Wadhurst, sound. We believe that that 40 homes in this location is major development and that this has not been justified under the exceptional circumstances test in the NPPF paragraph 172 (previously 116). Footnote 55 of the NPPF says: “For the purposes of paragraphs 172 and 173, whether a proposal is ‘major development’ is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined”. In terms of scale, not only is 40 dwellings a large development in its own right, this is effectively an extension to the adjacent site under construction, resulting in an overall site of 80 units.

No justification has been given for such major development as required under paragraph 116 of the old NPPF and paragraph 172 of the current NPPF. In particular it has not been demonstrated that the need for housing at Wadhurst could not be met in other ways, such as a combination of smaller sites. There is also no evidence presented for the amount of housing need generated by Wadhurst as all housing need figures are district-wide.

We would like to participate at the oral part of the examination to help explain the need for the changes proposed.

Kind regards,

A handwritten signature in black ink that reads "Kia Trainor". The script is cursive and fluid, with the first name "Kia" and last name "Trainor" clearly distinguishable.

Kia Trainor
Director, CPRE Sussex