

Extracts from CPRESx submissions for hearings beginning 29 November 2016, 13 January 2017 and 8th February 2017

Context

The requirement in the NPPF that development plans be sustainable and that they be positively prepared with the aim of meeting the realistic aspirations of local people is to be welcomed.

CPRE recognises that the Government is using the planning system as a tool to further its laudable policy to boost house building, economic prosperity and biodiversity enhancement. But that policy is a measured policy; one that requires the balancing of pros and cons, and testing proposed local strategic plan policies for their compliance with laws, regulations and the NPPF, and to ensure that they are sustainable, realistic and sound based on tests in the NPPF. The system is not about maximizing house building anywhere and at any cost.

Whilst the language of today is constraints, CPRE prefers to think positively in terms of planning to protect the countryside. Positive planning for countryside and biodiversity conservation and enhancement is as core a part of the required planning process under the NPPF as building houses.

Over the last 5 days' hearings no-one has mentioned the word "countryside" even once. It is not the job of the Developers Forum to look up from their new estate layout plans or balance sheets in order to peer out of the window and concern themselves with how to develop positive policies for that part of a sustainable district Plan. Greenery is not really their thing. But today the countryside needs to take centre stage in the context of how the Plan properly balances the undoubted need for more new homes with environmental enhancement.

Mid Sussex is a largely rural District. It is a special place because of that. Which makes it an attractive place to live (with the consequential demand pressures); and an attractive place to visit, with the significant tourist economy that depends on its rurality.

MSDC's whole vision and objectives for their Plan, set out in chapter 2, are predicated on the rural nature of the District; and that chapter of their plan has not come in for material criticism.

Unless the whole underlying ethos of their Plan is to be scrapped, and local people can be persuaded to accept that Mid Sussex is to become an urbanised district with just patchy pockets of countryside – and there is no mandate for such a fundamental change – the new District Plan must continue and value and celebrate the district's rural heritage, and make most of the opportunities (economic, heritage, biodiversity, cultural, human wellbeing etc) that the district's rural character offers. It would be a signal of the Plan's failure if the district finds itself dropping down the Halifax Quality of life Index mentioned in para 2.1 of the draft Plan.

The value judgements that are required to effect a fair balance between housing and environmental considerations – and hence the extent to which new development may need to be constrained – are ones that must recognise the statutory and regulatory protection afforded to the countryside, and the quality of the evidence as to the impact of a development proposal on the countryside and biodiversity, the likely effectiveness of any mitigation and enhancement opportunities and the quality of the housing scheme itself.

Positive, sustainable, planning involves planning for the conservation and enhancement of the environment and biodiversity every bit as much as it does for the building of houses, offices and industrial units. Nothing in the NPPF subordinates the environmental component of sustainability to other factors. The countryside plays a vital and irreplaceable economic role as a producer of resources from farm produce to energy, and as an economic generator of employment and tourist income (something of particular importance in Mid Sussex). Credit must also be given for the important role that our countryside plays in fostering human health and wellbeing, in mitigating climate change and

in facilitating biodiversity. All these benefits need to be valued and positively planned for on a long term basis. They certainly should not be viewed, as they too often are, as hindrances to new housing.

Future generations are as entitled as past generations to celebrate our countryside, wildlife and biodiversity. That is especially so here in Mid Sussex, which is blessed with some of the most special and important landscapes and biodiversity anywhere in the country, as attested to by the extent to which it is protected by special conservation designations. Even in areas of housing stress – a problem that affects all of South East England – the NPPF recognises that positive planning is as much about saying “yes” to environmental conservation and enhancement as it is about saying “yes” to new housing. At times, as NPPF para 14 acknowledges, sustainable development is incompatible with meeting housing needs in full. Nor is it a failure of sound planning when that occurs.

Impact of environmental constraints on new housing deliverability

We make no challenge to the Council’s methodology for calculating its objectively assessed housing need (OAN).

We do say, however, that whatever the District’s housing requirement may be, development is only sustainable if it is in the right place, and that a plan is only sound if its policies take proper account of the district’s capacity to absorb development growth, and of factors that constrain that capacity. Infrastructure constraints also have to be recognised [NPPF para 162]. In CPRE’s opinion environmental and other constraints make MSDC’s housing requirement undeliverable.

MSDC’s new Plan has failed to give effect to the environmental constraints on development identified in its own June 2014 LUC report entitled “Capacity of Mid Sussex District to Accommodate Development” (“LUC Capacity Report”). In particular it has given inadequate weight to the constraints imposed by NPPF paras 115-116 and the laws to which those paragraphs give effect vis a vis the High Weald AONB (not least in its proposed last-minute allocation for housing etc. of the Hardriding Farm site at Pease Pottage) and the two EU designated sites on Ashdown Forest. This failure by MSDC affects the soundness and deliverability of its 5 year housing target as well as the soundness of the settlement hierarchy in policies DP5/6, and policy DP15 (Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC)), with knock-on effects to other aspects of the Plan.

As a result, these parts of the Plan fail the NPPF tests of soundness because they are not consistent with achieving sustainable development; they cannot be justified as the most appropriate strategy when considered against the reasonable alternatives, based on proportionate evidence; they propose a housing target which highly unlikely to be deliverable over its period; and they are not in accordance with NPPF policies.

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There appears to be a view in some quarters that the higher the housing target is set in the new Plan, the more sustainable individual sites become to meet that target, thereby self-justifying the higher target. The environmental sustainability of a given site is not a variable that reduces by reference to an increase in the level of housing demand. So its suitability for development cannot and should not be influenced by the set housing target level. That is tantamount to putting the cart before the horse.

High Weald AONB protection

AONBs (and National Parks) are national assets of which local planning authorities have been appointed as custodians to preserve their natural beauty for posterity for the benefit of our and future generations; their purpose is not to act as reserve land banks for new housing.

AONBs and National Parks have been given substantially the same level of statutory protection for their landscape and natural beauty. Parliament has recognised that they are natural treasures that need

strong protection against development and degradation of their natural relative wildness. NPPF para 115 describes them as requiring the highest status of protection.

The obligation on MSDC to protect the High Weald's natural beauty, and the fact that the High Weald occupies 55% of the Plan area is a very significant constraint on MSDC's ability to meet its own, or anyone else's, housing need.

CPRE Sussex's position is that NPPF paras 115 and 116 operate (in para 14 terms) to restrict development so that the presumption that development anywhere within the High Weald AONB would be sustainable is ousted. The effect of para 115 is to create a presumption that development for any such development should be refused having regard to the great weight that your Council is required by the CROW Act to conserving and enhancing its landscape and scenic beauty applying an unbalanced weighting exercise.

We accept that the position has to be considered in the context of any realistic mitigation and enhancement opportunities that the development may offer, but caution that so called "mitigation" that involves destruction of natural landforms and habitats, and their replacement with new artificially created or landscaped ones would not normally enhance the natural beauty of the High Weald. It is also vital to understand that harm to the natural beauty of the AONB is likely to involve much more than just harm to the visual appearance of the landscape. It is the overall landscape characteristics of the AONB land that have led to its protected designation and that have to be addressed in considering the potential effectiveness of any proposed mitigation, not merely visual impacts. In the case of the High Weald the differing protected landscape characteristics are identified within the High Weald Management Plan and in Natural England's High Weald National Character Area profile 122 – see <http://publications.naturalengland.org.uk/publication/4706903212949504?category=587130>.

In the case of a major development - and any site likely to be considered for allocation purposes would inevitably be a major development – the NPPF is even more restrictive as to the circumstances in which it would be proper to permit development (or by inference, allocation) with its twin "exceptional circumstances" and "public interest" tests (separate tests that sometimes seem to get elided). CPRE Sussex argues that the need to meet a given housing target does not by itself amount to an exceptional circumstance or justify on public interest grounds overriding environmental constraints that would otherwise justify refusal of planning permission. If the High Weald were an acceptable place to build just in order to boost the District's housing numbers, statutory AONB designation to protect it from development would be wholly meaningless, not just for the High Weald but, given nation-wide housing pressures, for all or most of England's 34 AONBs. That is an illegitimate approach in terms of the CROW Act that sets out the Council's responsibilities vis a vis AONBs or NPPF paras 115-116. The "need for development" factor in para 116 is not to be read as allowing an authority struggling to meet its OAN to solve that problem within the AONB by ignoring their statutory responsibility to conserve and enhance the High Weald. If that had been the government's intention it would have been easy enough for them to say in para 116 that a housing shortage amounts to an exceptional circumstance. Para 116 does not say that (and quite rightly not!).

Given MSDC's disastrous recent decision to permit a 600 unit housing development on an unallocated site within the High Weald boundary at Pease Pottage, CPRE is deeply concerned that MSDC would like to be able to treat the High Weald AONB as a reserve area for allocation and development to help them to meet their housing target. Which implies that it will be okay to set a housing target that requires the use of the High Weald to meet that target. Any such approach is absolutely **not** what AONB designation is for, and it would not be a proper basis for a sound plan.

The Pease Pottage decision should not become a precedent that creates an open season for other strategic allocations or developments within the High Weald. We make the point because the evidence shows that MSDC does see the High Weald as a convenient and viable location to top up its housing to meet its target.

Protection of EU designated sites on Ashdown Forest

Mid Sussex takes the line that the Habitats Regulations do not restrict in any way the amount of new housing that it can allow in the proximity of Ashdown Forest's two EU designated sites on its boundary so long as the developers provide sufficient neighbouring "SANGS" at a rate of 8 ha per 1,000 population increase, and NO² levels across the forest are monitored. We say that there is **no** evidential support to justify the Council's conclusion that this policy is supportable as a solution to the Habitats Regulations requirement that development must be avoided if, when considered in combination with other development proposals, it would harm, or should be presumed likely to harm the protected birds and habitats on those EU sites.

Other countryside considerations

As to the Low Weald and other countryside areas, there is a great danger that those parts of the District that are outside the main town settlements and that don't enjoy high level environmental protection designation are all fair game for large scale building in a District that is under pressure to meet its, and others', housing needs.

But one cannot cast aside the evidence of the thorough Capacity Study undertaken by LUC as to the District's capacity to absorb more housing which tells us that the rural parts of the district has low capacity to absorb anything more than a small number of new housing.

Nor can one ignore the value long put by the planning system on maintaining effective segregation of individual communities and preventing ever-expanding sprawl.

And a lot of the countryside is made up of valued landscape and/or biodiversity hotspots that the planning system expects to see protected and enhanced. Some of it has archaeological or heritage or other significance.

So CPRE cautions strongly against making any broad brush assumption that the Mid Sussex countryside is available as a developers' pleasure ground when one looks at the district's capacity to absorb new development, whether housing or otherwise.

Conclusions

The heavy focus in the hearings to date on boosting housing numbers within the draft Plan has obscured the focus away from the equally important provisions within the NPPF intended to ensure the conservation and enhancement of the environment and biodiversity as a key component of a sustainable plan. That environmental component adds value in its own right and is not subordinate to others. The NPPF provides guidance to planners as to how to address inevitable clashes between economic, social and environmental considerations. CPRESx's submission flashes a spotlight on some of that guidance relevant to site allocations in which the environmental component of sustainability gets particular attention and indicates how CPRESx understands that guidance should be applied in assessing potential site allocations.

CPRESx has sought to demonstrate how the main environmental considerations should properly be evaluated and weighted for site appropriation purposes. CPRESx believes that the inevitable conclusion, when the NPPF principles for the balancing of factors that ensure sustainable development are applied correctly and consistently, is that a sound housing target would be one that constrains development below the District's Objectively Assessed Need. Evidence of past deliverability, and the severe challenge of finding sustainable sites for development, indicate to us that even the Council's own 800dpa target is unlikely to be deliverable.

Isn't it pertinent to ask the question as to why it is that, year after year, MSDC has only been able to deliver a fraction of the number of houses that it now wants to commit to during a period much of which

it has been subject to the NPPF cosh of the presumption that development proposals are sustainable and must be permitted; and what is so different about the new piece of paper that will suddenly and magically enable it reliably to achieve, year after year, housing delivery levels that before 2016 it has never ever achieved even once in the last 20 years. That seems to us to be a vital sanity check needed before the new target is finalised.

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The annual target set for Mid Sussex to achieve in its new Plan in terms of new housing delivery will, of necessity draw a line somewhere between what Mid Sussex and its neighbours need and what it can realistically deliver. A value judgement will have to be made, whether by the Inspector or by the Council using the best available evidence and recognising the legal, environmental and other constraints that affect the developability much of the district.

It seems patent to CPRE that some of the numbers being suggested by the Developers Forum and Mayfield Developments as to the calculated number representing local need – whether that calculation is accurately reflective of the real world is another matter – set a deliverability challenge for the Council that it would have no hope at all of meeting. And the absurdity of the challenge that they seek to set is only exacerbated when one factors in their call for Mid Sussex – sitting here near the back of the Plan approval queue – to pick up the surplus needs of so many other authorities with humungous unmet needs of their own as though Mid Sussex was the dumping ground of the South Coast.

It is an inconvenient fact, but a fact nonetheless, that there are very real and very substantial environmental constraints (some set by legislation, some by the NPPF, and some based on sustainability evidence) that limit this district's capacity for housing growth, that have bedevilled its historic ability to meet its target, and that must be reflected in the new Plan's housing target if we are to avoid the catastrophe of another failing plan.

If Mid Sussex's new local plan is to reflect "the vision and aspirations of local people" (in the phraseology of NPPF para 150) it must be a plan that is realistically deliverable by the District Council over its life. This draft Plan, with its unrealistic housing target, is not a reliably deliverable plan. We urge the Inspector to save MSDC from itself and not to allow the Plan to set a replacement housing target that is as similarly unrealistic and undeliverable as its current, demonstrably unachievable one. No public good is achieved by squeezing MSDC into a position whereby the likelihood is that within a short space of time the Council's new local plan, so agonisingly long in the making, becomes as out of date as the current one.