

**Examination Statement
Matter 2 – Duty to Cooperate**

Mid Sussex District Plan

Representations on behalf of Crest Nicholson

30 September 2024

Lucid
Planning

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1. Introduction

- 1.1 This Statement has been prepared by Lucid Planning on behalf of our Client, Crest Nicholson, who has an interest in the land to the north of Old Wickham Lane, Haywards Heath (SHELAA Ref 988). This Statement is prepared in response to the Inspectors' Matters, Issues and Questions.
- 1.2 Representations have been made on behalf of our Client throughout the production of the emerging Local Plan and these representations expand upon earlier representations. While efforts have been made not to duplicate the content of previous representations, this Statement draws on previous responses where necessary.
- 1.3 These representations have been prepared in recognition of prevailing planning policy and guidance, particularly the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG).
- 1.4 These representations respond to the Inspectors' MIQs but does not respond to all questions raised under this Matter but focuses on those questions of particular relevance to our Client's interests.
- 1.5 These representations have been considered in the context of the relevant NPPF that the District Plan is being examined under - NPPF September 2023 - and tests of 'soundness' as set out at paragraph 35 of that NPPF. This requires that a Local Plan be:
- **Positively Prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- **Consistent with National Policy** – enabling the delivery of sustainable development in accordance with the policies in the Framework.

2. Response to Matter 2 – Duty to Cooperate

Issue 1: Whether the Council has complied with the duty to co-operate in the preparation of the Plan?

Duty to Co-operate

Question 22. Has the Council co-operated with the relevant local planning authorities, and appropriate prescribed bodies, in the planning of sustainable development relevant to cross boundary strategic matters? If so, who has the Council engaged with, how, why, and when, with particular reference to the ability to influence plan making and the production of joint evidence and meeting unmet needs?

Question 23. Specifically, in relation to Mid Sussex Council, what are the matters of cross boundary strategic significance which require co-operation, and how have these matters been identified?

Question 24. In considering such matters, including the timing, has the Council co-operated with those identified above, constructively, actively, and on an on-going collaborative basis throughout the preparation of the submission plan?

Question 25. I am aware of a number of cross boundary groupings which involve Mid Sussex on a sub-regional level as set out in the various Statements of Common Ground. As a consequence of the Council's legal duty to co-operate, how has the effectiveness of plan-making activities relating to the identified strategic matters been maximised to enable deliverable, effective policies? In doing so, has joint working on areas of common interest been undertaken for the mutual benefit of Mid Sussex Council and its neighbouring authorities with tangible outputs?

Question 26. Has Mid Sussex Council been diligent in making every effort to meet cross boundary strategic priorities, including addressing potential unmet development needs arising from neighbouring authorities as referenced in Policy DP5 of the Mid Sussex District Plan 2014-2031 and as requested by neighbouring authorities?

27. Notwithstanding the Housing Needs Statement of Common Ground (SoCG) (DC4), signed by the Northern West Sussex authorities, what is the rationale for the prioritisation of meeting the unmet needs of the Northern West Sussex HMA over those of the unmet needs of other relevant HMAs?

28. Are there strategic matters which have not been adequately considered on a cross boundary basis? If so, what are they and how is this the case?

29. Specifically, has the Duty to Co-operate been discharged in a manner consistent with Paragraphs 24- 27 of the Framework?

Acknowledging but Not Addressing Unmet Need of Neighbouring Authorities

2.1 Paragraph 26 of NPPF (September 2023) states,

*“Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and **whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.**”* Author’s emphasis.

2.2 The duty to cooperate is a legal requirement for local planning authorities and other bodies in England **to work together to improve the effectiveness of local plans. Authorities must work together constructively, actively, and on an ongoing basis.** Author’s emphasis.

2.3 Authorities can use a Statement of Common Ground (SCG) to show that they have worked together effectively **to produce a strategy.** Author’s emphasis.

2.4 In its DC1 Duty to Cooperate Statement (July 2024) the Council sets out its approach to providing Statements of Common Ground (SoCG) with various neighbouring authorities, formal groups of authorities and statutory consultees. It has, however, submitted the District Plan (DP) for examination with fundamental SOCGs missing.

2.5 Most pertinent to Crest is the missing SOCG with the West Sussex and Greater Brighton Strategic Planning Board, or any SOCG with individual coastal West Sussex authorities that sit within that group, i.e. Adur, Arun,

Chichester, Lewes or Worthing with the exception of Brighton and Hove DC.

2.6 Paragraph 13 of DC1 Duty to Cooperate Statement (July 2024) states in regard to this group,

“Whilst all authorities within this group have sought options to maximise housing supply, factors such as Water Neutrality (which has significantly impacted delivery in Crawley, Chichester, Horsham and the South Downs National Park) have significantly constrained the amount of development that can be delivered within the current set of plans being prepared. This position will be kept under review. “

2.7 At the time of writing, it is also worth noting that SOCGs are missing with the Environment Agency, Historic England, Natural England.

2.8 The Council acknowledges in document H5 Housing Need and Requirement Topic Paper, July 2024 at paragraph 38 that within the North West Sussex HMA there is an unmet housing need of 9882 new homes (7505 dwellings in Crawley to 2040 and 2377 in Horsham to 2040) as set out in their submitted local plans.

2.9 In paragraph 40 of the same document, it states there is an unmet need of “in excess of 30k dwellings’ in Coastal West Sussex and Greater Brighton to 2050. That paragraph recognises the constraints of these authorities, *“notably the South Downs National Park, High Weald Area of Outstanding Natural Beauty, and the coastal authorities (by their nature) constrained on their southern boundaries by the sea.”*

2.10 This means that there is an acknowledged unmet housing need in the authorities surrounding Mid Sussex of approximately 40,000 new homes. Mid Sussex acknowledge that the constraints are physical and/or severe in terms of planning policy (National Park, National Landscape and Water Neutrality). This number will only increase if the North West Sussex HMA time period was extended to 2050 to match the Coastal

West Sussex work. Add to that the proposed new Standard Methodology figures set out in the Government’s Planning Reform consultation for each of the named authorities - which increases housing need in every case – and this means that 40,000 homes of unmet need is a minimum.

2.11 Yet, knowing this Mid Sussex continues to plan, and assess, for only its own needs, but “*should there be any excess supply*” will prioritise providing new homes for North West Sussex HMA.

2.12 Document DP5 Brighton and Hove City Council SoCG sets out that Brighton and Hove DC has a housing need of 2333 new homes a year, whilst only providing 660 dwellings per year in the current local plan. Given the physical and environmental constraints that limit the potential for needs to be met, this current unmet need of 1673 dwellings per year is only going to increase without assistance from neighbouring authorities to help meet that unmet need through their local plans.

2.13 Para 12 of the DP5 Brighton and Hove City Council SoCG sets out that Brighton and Hove CC does not agree with the prioritisation of the North West Sussex HMA stating,

*“BHCC notes the position (11) of MSDC but does not agree with the prioritisation set out above. BHCC’s view is that, given the scale of unmet housing need in the Coastal West Sussex HMA and those of Brighton & Hove in particular, **options to explore meeting unmet need within the Coastal West Sussex HMA should not be secondary or contingent upon the consideration and/or resolution of unmet housing needs elsewhere.** (Author’s emphasis)*

2.14 The residents of Mid Sussex and the wider HMAs deserve a more cohesive, collaborative and strategic Plan that more comprehensively addresses the unmet need in Brighton and Hove DC and the Coastal West Sussex authorities as well as those in North West Sussex.

- 2.15 Not addressing these issues only serves to exacerbate the housing crisis in Brighton and Hove – and the other Coastal West Sussex authorities. It is the responsibility of Mid Sussex DC to not just acknowledge there is a need but to actively and constructively work with its neighbours to find solutions for this significant unmet need. Only by doing this can this District Plan be considered to have planned positively and be effective and justified.
- 2.16 **Mid Sussex’s approach of starting from the bare minimum of meeting its own need and then restricting any surplus to one HMA is a fundamental flaw in the soundness of the Mid Sussex District Plan as the Plan cannot be considered to be positively prepared, justified, effective or consistent with national policy.**

The Lack of Growth Reasonable Alternatives

- 2.17 The Sustainability Appraisal considered growth for this plan period based on four principles:
- Protection of designated landscape (e.g., AONB, now National Landscape).
 - Making effective use of land.
 - Growth at existing sustainable settlements where it is considered to be sustainable to do so.
 - Opportunities for extensions, to improve sustainability of existing settlements that are currently less sustainable.
- 2.18 In terms of spatial options, five options were set out in paragraph 4.2.3 *“to reflect alternative strategies for delivery of growth and meeting housing need”*:
- Option 1:** Maintain the existing spatial strategy set out in policies DP4 and DP6 of the Adopted District Plan, with proportionate growth across the hierarchy of settlements, with main settlements accommodating greater levels of growth.

Option 2: Growth to support the sustainability potential of existing smaller settlements, with limited growth in protected landscapes. This spatial Option seeks to support growth in settlements with existing facilities, such as retail opportunities, schools, and health care. While recognising that urban extensions of a strategic size bring opportunities to support the development of new facilities.

Option 3: Creating a new sustainable settlement with associated facilities.

Option 4: Focus development in the three towns (Burgess Hill, Haywards Heath and East Grinstead) utilising existing facilities and transport links.

Option 5: Prioritise development on brownfield land.

2.19 No reasonable alternative strategies were considered to test alternative growth options to consider meeting some or all of unmet need from neighbouring authorities. This is a fundamental flaw in the District Plan and as such it cannot be considered to be positively prepared, justified, effective or consistent with national policy.

2.20 In effect the Council went straight to assessing individual sites as reasonable alternatives, as paragraph 6.1 of the Sustainability Appraisal explains: following assessment against the Site Selection methodology, 42 reasonable alternative sites for housing were identified. However, the Site Selection methodology, and therefore the SA, seems to have only considered individual sites without considering specified details of proposed developments, which has resulted in deliverable and developable sites being rejected outside of any tangible spatial strategy.

Dismissal of Development in Haywards Heath and East Grinstead

- 2.21 Haywards Heath, East Grinstead and Burgess Hill are Category 1 Towns, the highest category in the settlement hierarchy in Mid Sussex. They appear, to one degree or another in Options 1, 4 and Option 5 of the SA.
- 2.22 Despite a number of acknowledgments (e.g. Page 122 of the SA) that focussing development in the three towns would likely lead to a significant positive impact on economic growth and regeneration in the three towns and would have a likely major positive impact on objectives for health and wellbeing, education, community and crime, climate change, and transport (as well as contributing to the creation of 20 minute Neighbourhood's – one of the Plan's main Sustainable Development objectives) – Option 2 (growth in smaller settlements) was preferred.
- 2.23 Further, development has been severely restricted in Haywards Heath (and East Grinstead) without strategic consideration, reasoning or evidence. This makes no sense in spatial planning or sustainable development terms.

Haywards Heath: A Highly Sustainable Town

- 2.24 Haywards Heath is a Category 1 Town - the highest and most sustainable form of settlement in the district - with a rail station, education and health facilities that is well located to serve the south of the district and the towns in Coastal West Sussex. It is outside of the High Weald AONB/National Landscape and outside the South Downs National Park but is located within both the North West Sussex and Brighton and East Sussex HMA and FEMA.
- 2.25 Local Plan Table 2a (page 41) has been re-ordered below to show the number of allocated plots being proposed by the Council in order of

magnitude for each settlement and the Council's settlement category as a point of reference.

Settlement	Plot Allocations	Category
Sayers Common	2393 plots	Cat 3 - Medium Village
Burgess Hill	1708 plots	Cat 1 - Town
Copthorne	1500 plots	Cat 2 – Larger Village
Crawley Down	387 plots	Cat 2 – Larger Village
Haywards Heath	226 plots	Cat 1 - Town
Bolney	200 plots	Cat 3 – Medium Village

2.26 It is clear from the above distribution that the number of new plots allocated to Haywards Heath is not proportional to the category of settlement and that the Council are not favouring locating new development allocations in their most sustainable larger settlements.

2.27 It is the Council's responsibility, in accordance with the aims and objectives of the Local Plan to deliver sustainable development. The hierarchy of movement, which seeks to ensure that people walk or cycle, then use public transport and only where such opportunities do not exist fall back on car travel, is key to achieving sustainable development. Locations such as the land at Old Wickham lane, Haywards Heath offer an obvious opportunity to allocate sustainable housing sites.

The Site Selection Process

2.28 There are a number of sites around Haywards Heath that could overcome the site selection reasons for rejection if there was a more strategic approach to growth at Haywards Heath and further consideration of

submitted evidence such as high level development layouts and mitigation measures that could be provided.

2.29 Some planning consideration of sites has obviously taken place during the evolution of the District Plan, as the Crest site at Old Wickham Lane in Haywards Heath (Ref 988) was initially considered in the 2023 SHELAA to be able to accommodate 171 dwellings, but this was reduced to 60 in subsequent stages. The site was finally being rejected at Stage 2c as *“Development of the site would cause less than sustainable harm: High impact to a grade 11* listed buildings. It is not considered that the benefits of development would outweigh harm or loss to the asset”*.

2.30 Further, paragraph 38 of the SSP1 Site Selection Methodology states that the Council welcomes the submission of any evidence/technical reports/etc that would assist in undertaking the assessment. Representations to the Reg 19 Plan made on behalf of Crest demonstrated how the site layout could be designed to mitigate against the heritage impact. The accompanying Heritage Report, prepared by RPS dated October 2021 (which is sufficient to inform a decision on the suitability of the proposed development in regard to built heritage issues, in accordance with paragraph 189 of the NPPF) concludes,

“The Site is formed of pasture fields lying to the north of the extended built area of Haywards Heath. The Site is bound by a rail line in the west, built development to the south and east and further pasture land to the north. The Site has been identified as making a moderate contribution to the significance of relevant built heritage assets as a positive element in their semi-rural or edge of settlement setting.

The proposed development represents a further erosion (lesser than the degree undertaken in the 20th Century) of the semi-rural character of the immediate setting of the relevant built heritage assets. The proposed development incorporates a number of design

*measures that respond to this contribution to built heritage significance. **Based on the available information the proposed development is considered to preserve the significance of relevant listed buildings and avoid and minimise potential harm to heritage assets, with potential adverse impacts being limited to a low or very low level of less than substantial harm.** (Author's emphasis).*

- 2.31 As this was the only reason for rejection at Stage 2c, if the submitted evidence had been considered fully, this site would have passed the Site Selection.
- 2.32 **As such, Land at Old Wickham Lane should be allocated and help Mid Sussex meet further unmet need from Brighton and Hove within a wider and more sustainable spatial strategy that helps the Council provide 20 minute neighbourhoods and meets its own objectives.**

The Government's Planning Reforms

- 2.33 Although not a matter for this examination, the Government's Planning Reforms, if/when enacted, provide an opportunity to make it easier for authorities to plan collectively/collaboratively for housing need in their wider area, and not just within their administrative boundary. With a more outward-looking approach to strategic planning, it will make life difficult for those authorities that choose to only look inside their boundaries and ignore the plight of thousands of residents in the wider area. This collaborative approach should be welcomed by Mid Sussex and its neighbours to properly and strategically plan for the residents in the HMAs and to address the ever increasing unmet need, and to provide the infrastructure for it.

Conclusions

2.34 Within the context of the changing landscape of plan-making set out within the Planning Reform consultation, it may be that given the extraordinary level of unmet need, particularly in Coastal West Sussex and Brighton and Hove DC, that this District Plan should be paused for a short, finite amount of time (similarly to the process set out in the Reforms) to enable Mid Sussex DC to:

- consider reasonable alternatives in its Sustainability Appraisal that actively address the current known unmet need of its neighbouring authorities
- reconsider its spatial strategy to optimise sustainable development, the 20-minute neighbourhood and active travel by focussing on all three of its Category 1 towns, not just Burgess Hill as well as providing for appropriately sized development in other settlements and allowing for smaller sites
- revisit the sites considered in the Site Section where site layouts and mitigation have been submitted and evidenced to provide more deliverable housing sites.

2.34 Alternatively, if this cannot be done within a reasonable timeframe (six months is suggested) the District Plan should be found unsound and the work set out in paragraph 2.30 above undertaken under the new plan-making system proposed by the Government. This would ensure plans are fully evidenced and prepared with neighbouring authorities to meet unmet housing need and '*capable of being found sound*' prior to submission.

2.35 To conclude - for all the reasons set out above - it is Crest's belief that the Duty to Co-operate has NOT been discharged in a manner consistent with Paragraphs 24- 27 of the Framework.