



The Planning Inspectorate

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## **Report to Mid Sussex District Council**

**by Mike Fox BA (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Date: 30 May 2022

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Mid Sussex Site Allocations Development Plan Document**

The Plan was submitted for examination on 16 December 2020

The examination hearings were held between 1 and 16 June 2021

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## Abbreviations used in this report

AH	Affordable Housing
AONB	Area of Outstanding Natural Beauty
AQMA	Air Quality Management Area
BLV	Benchmark Land Value
C2	Use Class C2 (Residential institutions, such as care homes)
CC	County Council
CSA	CSA Environmental (consultants)
DC	District Council
DfT	Department for Transport
dpa	Dwellings per annum
DPD	Development Plan Document
dph	Dwellings per hectare
DTC	Duty to Cooperate
E	Use Class E (Commercial, Business and Service)
EA	Environment Agency
ha	hectare
HEDNA	Housing and Economic Development Needs Assessment
HMA	Housing Market Area
HRA	Habitats Regulation Assessment
IDP	Infrastructure Delivery Plan
IR	Inspector's Report
km	kilometres
LEP	Local Economic Partnership
LGS	Local Green Space
LPA	Local Planning Authority
LUC	Land Use Consultants
LVA	Landscape and Visual Appraisal
LVIA	Landscape and Visual Impact Assessment
m	metres
MIQ	Matters Issues and Questions
MM	Main Modification
MSDC	Mid Sussex District Council
MSTS	Mid Sussex Transportation Study
NE	Natural England
NP	Neighbourhood Plan
OAN	Objectively Assessed Housing Need
OCP	Opportunities and Constraints Plan
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SAMM	Strategic Access Management and Monitoring
SANG	Suitable Alternative Natural Greenspace
SCG	Statement of Common Ground
SDNP	South Downs National Park
SDNPA	South Downs National Park Authority

SEL	Strategic Employment Land
SEP	Strategic Economic Plan
SHLAA	Strategic Housing Land and Employment Land Availability Assessment
SPA	Special Protection Area
sq ft	square foot
STP	Science and Technology Park
SuDS	Sustainable Drainage System
TA	Transport Assessment
<i>The Framework</i>	National Planning Policy Framework (NPPF) July 2021 version
WSCC	West Sussex County Council

## Non-Technical Summary

This report concludes that the Mid Sussex Site Allocations Development Plan Document provides an appropriate basis for the planning of the District, provided that a number of main modifications [MMs] are made to it. Mid Sussex District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed modifications. The MMs were subject to public consultation over an eight - week period. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Reduce allocation SA25 at Land West of Selsfield Road, Ardingly, from 70 to 35 dwellings in order to align its proportionality to the size and needs of the existing settlement and to ensure its status as a minor development within the High Weald Area of Outstanding Natural Beauty (AONB);
- Modify policy SA20 for 550 dwellings at Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead, to include provision for at least 142 older persons' dwellings on a specific designated site within the overall allocation;
- Modify policy SA20 to ensure regular monitoring of the proposed Suitable Alternative Natural Greenspace (SANG);
- Include new criteria-based policy to provide for specialist accommodation for older persons' housing within Mid Sussex;
- Modify policy SA13 for 300 dwellings at Land East of Keymer Road and South of Folders Lane, Burgess Hill, to ensure the acceptable mitigation of its impact on the setting of the South Downs National Park; (SDNP)
- Modify policy SA14 for Land to the South of Selby Road, Burgess Hill, to specify proposed vehicular access;
- Modify various policies for new housing within the High Weald AONB, to ensure the inclusion of the requirement to conserve and enhance the landscape and scenic beauty of the AONB;
- Modify policy SA22 for Land North of Burleigh Lane, Crawley Down, to specify and secure proposed vehicular access;
- Modify policy SA29 for Land to South of St Stephens Church, Hamsland, Horsted Keynes, regarding vehicular and pedestrian access and tree protection;
- Modify policy SA31 for Land to the rear of Firlands, Church Road, Scaynes Hill, to secure provision of safe and convenient pedestrian access.

- Modify policy SA34, to ensure reasonable marketing expectations when determining applications for change of use from employment to non-employment sites;
- Modify policy SA37 for the Burgess Hill/Haywards Heath Multifunctional Network, to ensure effective mitigation of ecological impact;
- Modify policy SA35 for the safeguarding of Land for Delivery of Strategic Highway Improvements, to meet the requirement for biodiversity net gain;
- Include a new monitoring indicator, related to biodiversity net gain; and
- Include a few other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Mid Sussex Site Allocations Development Plan Document Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2021 (*the Framework*) (paragraph 35) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The Mid Sussex Site Allocations Development Plan Document submitted in December 2020 is the basis for my examination. It is the same document as was published for consultation in August 2020.

## Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs. The schedule was subject to public consultation for eight weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

## Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as *Policies Maps for Draft Submission Site Allocations DPD Regulation 19* (comprising 21 main maps and a number of insets).
6. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map.

7. These further changes to the policies map were published for consultation alongside the MMs (Document DPD3a – Main Modifications – Policy Maps, dated November 2021).
8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the MMs.

## **Context of the Plan**

9. The Mid Sussex Site Allocations Development Plan Document (2014-2031) is the Part 2 or 'daughter plan' to the Mid Sussex District Plan, covering the same planning period. It allocates additional development sites to meet the residual amount of housing and employment land to meet the strategic requirements set out in the District Plan. It also updates, through policy SA10, the residual housing requirement set out in policy DP4 of the District Plan, along with its spatial distribution. Further, it provides a more detailed planning framework for the implementation of a Science and Technology Park, to serve the economy of the wider sub region.
10. Mid Sussex is a largely rural District, in geographical terms, focused on the three towns of Burgess Hill, Haywards Heath and East Grinstead. It is well located by rail and road to London to the north and Brighton to the south, with easy access to Gatwick Airport, a few miles to the north of the District, leading to high pressures for development. About half the area of the District, mainly in the north, is designated within the High Weald Area of Outstanding Natural Beauty (AONB), whilst the southern part of the District is within the South Downs National Park (SDNP) and falls outside of the planning jurisdiction of the District. Around a quarter of the District in the north-east, largely overlapping with the AONB, forms part of the Ashdown Forest 7 km Zone of Influence, which further limits development options within the District.
11. Mid Sussex's attractive physical environment, high Gross Domestic Product (GDP) and accessible location, is reflected in its high house prices. There is a fine balance to be struck between maintaining its superb physical assets, respecting its development constraints, whilst meeting its not inconsiderable housing and employment needs in a sustainable way.

## **Public Sector Equality Duty**

12. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has taken into consideration several matters during the examination including qualitative housing needs, such as housing for older people, and acknowledging that aspects such as affordable housing and accessible housing are covered adequately within the District Plan. The Plan satisfactorily addresses gypsy and traveller



accommodation, although again, this subject is addressed in the District Plan at a strategic level.

## **Assessment of Duty to Co-operate**

13. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
14. The Plan, as a Site Allocations DPD, or Part 2 Plan, is largely non-strategic in nature. Therefore, in the main, the Council is not required through its strategic policy making duties to co-operate further with the specific Duty to Co-operate (DTC) bodies, having already done so for the preparation of the strategic District Plan. However, the Council has sought to engage with its neighbouring authorities during the preparation of this Plan. This has included where site allocations are in close proximity to neighbouring local planning and highway authorities, for example in relation to site allocations SA19 and SA20, which are close to the neighbouring District of Tandridge and Surrey County Council, where highways and other impacts have been jointly assessed.
15. There has also been joint consideration between the Council and the South Downs National Park Authority (SDNPA) in relation to the potential impact of proposed housing schemes on the setting of the National Park, for example in relation to site allocations SA12 and SA13, on the south-east fringe of Burgess Hill. These two allocations are also close to the boundary of the District of Lewes and East Sussex County Council, and there has been ongoing joint considerations in relation to policy SA37 which proposes the Burgess Hill/Haywards Heath Multifunctional Network.
16. There has also been ongoing joint work on environmental matters with the High Weald AONB Unit and several other local planning authorities and bodies and agencies, especially in relation to the potential impacts of new development on the Ashdown Forest Special Protection Area (SPA) in the neighbouring District of Wealden, including its 7 kilometre Zone of Influence, which extends into Mid Sussex.
17. In all of the above areas where joint working and co-operation has been undertaken, the Council has pointed to Statements of Common Ground (SCGs) which confirm that the Council has co-operated with its neighbouring local planning and highway authorities, in addition to the SDNPA, the High Weald AONB Unit and relevant statutory bodies. These are set out in detail in the Council's DTC Statement<sup>1</sup>.
18. Concern was expressed in representations and debated in the hearing sessions that the DTC has not been complied with, for example in

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<sup>1</sup> Examination Statement DC1

relation to the housing needs of other areas and traffic and visual impacts associated with several proposed site allocations in the Plan, some of which I cover later in my report. The evidence, however, clearly points to a history of ongoing co-operation with a range of parties, including statutory bodies, local planning authorities and action groups, in relation to these site allocations and other policies. All the responses from statutory consultees have been broadly supportive of the Plan. It is also important to recognise that the DTC is not a duty to agree.

19. On the basis of the above evidence, I am satisfied that where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

## **Assessment of Soundness**

### **Main Issues**

20. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified seven main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan. The bulk of my report now addresses each of these main issues below.

### **Issue 1 - Are the Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) justified and do they provide effective input into the policies of the Plan?**

#### **Sustainability Appraisal (SA)**

21. The evidence submitted and which came to light during the examination of the Plan shows that the SA has been undertaken at each stage in the preparation of the Plan, with the overall process, including an appraisal of reasonable alternatives, summarised in the non-technical summary<sup>2</sup>. The Council also set out a topic paper<sup>3</sup> to further explain the SA process. It is important to recognise that the Plan is in effect the 'daughter document' of the District Plan, meaning that its scope is necessarily limited by the strategic parameters of the District Plan. It would therefore be inappropriate if the SA for this Plan were to provide

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<sup>2</sup> Mid Sussex SA DPD Sustainability Appraisal (Incorporating Strategic Environmental Assessment) Non-Technical Summary Regulation 19; July 2020.

<sup>3</sup> Mid Sussex DC-TP3: Introduction to the Site Allocations DPD; December 2020.

input into strategic options, which will no doubt be assessed at the review stage of the District Plan.

22. The baseline information covers a wide mix of social, environmental and economic issues, and they are clearly set out in the main SA report. The SA comprehensively identifies the current sustainability issues faced by Mid Sussex, which include the District's increasing and ageing population; the need for affordable housing in the context of high house prices/housing stress and a few pockets of deprivation; high car ownership; a high quality natural environment; high pressure on water usage in an area of potential water shortage; high flood risk in certain areas; high levels of commuting, including to London; some infrastructure deficits in sewerage and water supply, transport and play provision, which could be exacerbated by further development; and the potential for the three main town centres to benefit from regeneration and renewal.
23. The assessment of reasonable alternatives involved detailed evidence testing against 16 sustainability criteria and I am satisfied that this work was carried out at an appropriate level of thoroughness for a local plan and that these criteria are appropriate for assessing the sustainability of the Plan. It is also important to bear in mind that the main strategic direction for development in Mid Sussex has already been determined through the District Plan, which itself had undergone SA, and that the focus of the SA for this Plan was to consider the most sustainable outcomes for the residual requirement, i.e. the 1,280 dwellings still (as a minimum) required as the residual figure which was changed during the examination to meet the District Plan requirement<sup>4</sup>.
24. Whilst concerns have been raised that insufficient alternatives were considered and that 'wrong' or unsustainable allocations were included in the Plan, these representations were often linked to alternative housing sites which did not make it to the final allocation stage. However, the SA work is only part of the site selection process, and sufficient sites were considered and selected to meet the overall residual requirements of the District. Moreover, the SA employed a three-option set of reasonable alternatives for assessment, which included a list of 20 'constant' sites (Option A), a list of constant sites plus three additional sites in the Folders Lane area of Burgess Hill (Option B), and finally a list of constant sites plus a site at Haywards Heath Golf Course (Option C). The assessment of these three options was clear and transparent and, in my view, was rigorous.
25. Some representations argued that the SA process was insufficiently rigorous in diverting development away from the High Weald AONB. However, in a District with such a large proportion (over 50% of its land area) within the AONB as well as containing additional areas within the

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<sup>4</sup> See Document MSDC-06b.

setting of the SDNP, it is inevitable that conflicts were going to arise between meeting housing need and environmental protection, given the community needs of settlements within the AONB for limited development schemes. It would therefore be unreasonable in my view to have imposed a blanket ban on development allocations within the AONB, a view which is supported by the High Weald AONB Unit. Difficult choices have had to be made, as witnessed by the large volume of objectors to several of the allocations in the Plan.

26. I am satisfied, however, from the detailed evidence in written submissions and at the examination hearings, that the SA work got the balance right, and that key sustainability considerations, such as the need for affordable housing (AH) and sufficient employment land, have been taken into account as well as environmental criteria.
27. In addition to assessing land for new housing allocations, the SA appraised 24 potential employment sites, aligned into three options, plus two options for a Science and Technology Park (STP) as well as allocating sufficient employment site provision to meet local, as well as sub-regional need. Again, the process in achieving this is justified, clear and transparent. The detailed evidence points to the SA being a major influence in informing key development decisions, rather than being a bolt-on process.
28. I also note from the examination evidence that no adverse effects are identified in the SA that cannot be effectively mitigated, and that most of the preferred options which have been included in the Plan do not contain any significant negative impacts against any of the SA objectives.
29. Overall, I am satisfied that the SA was methodical, clear and transparent and was prepared in accordance with best practice, in an iterative fashion. It is therefore robust.

### **Habitats Regulations Assessment (HRA)**

30. The Council makes it clear in its response to the Matters, Issues and Questions (MIQs) discussion document that the full District Plan housing requirement of 16,390 dwellings, of which a residual of 1,280 dwellings is subject to this Plan, is contingent on the findings of the HRA. The Council's response to the MIQs<sup>5</sup> demonstrates that HRA reports were undertaken for each stage of the preparation of the Plan.
31. In addition, the HRA assessed the potential effects of development on the Ashdown Forest, which is located within the neighbouring District of Wealden, close to the north-east boundary of the District; its 7

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<sup>5</sup> MSDC: Site Allocations DPD-MSDC-02b: Matter 2 – Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA); 14 May 2021.

kilometre (km) Zone of Influence extends into the District, including 'washing over' East Grinstead, one of the three main settlements in Mid Sussex. The Ashdown Forest is designated as a Special Area of Conservation (SAC) because of the presence of breeding populations of Dartford warbler and European nightjar, and it is a SAC because of its heathland habitats.

32. The HRA which was carried out for the Regulation 19 Plan concludes that the Plan does not present any potential risks to any European sites that are not considered capable of being mitigated. The HRA also concludes that, in addition to the impact of development, adverse effects on the integrity of the Ashdown Forest SPA and SAC relating to air quality and recreation impacts can be ruled out. Therefore, the Plan is justified and effective in relation to the Habitats Regulations. I note that Natural England (NE) supports the HRA conclusions and from the evidence before me, I see no reason to come to a different conclusion.
33. The Council has also taken account of the 'People Over Wind & Sweetman' judgment in its HRA. The SA cross-references to the HRA for matters concerning the Ashdown Forest. The relevant mitigation in relation to proposed site allocations includes a strategic SANG as part of policy SA20.

### **Issue 1 - Conclusion**

34. I conclude that the SA and HRA are justified and provide effective input into the policies of the Plan.

## **Issue 2 – Does the Plan deliver both the quantitative and qualitative aspects of housing provision in the District Plan to meet Mid Sussex's requirements over the plan period in accordance with national policy?**

### **Quantum of housing provision**

35. The District Plan for Mid Sussex, covering the years 2014-2031, sets out a minimum requirement of 16,390 new homes for Mid Sussex<sup>6</sup>. Policy DP4 in the District Plan explains that this figure exceeds the objectively assessed needs (OAN) figure, which was calculated at 14,892 dwellings, i.e. providing a buffer of 1,498 dwellings, or 9.14 per cent; this figure addresses the unmet housing need of the North West Sussex Housing Market Area (HMA), principally related to Crawley.

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<sup>6</sup> That is, the housing requirement for Mid Sussex District outside the South Downs National Park, which is a separate local planning authority.

36. Most of Mid Sussex's housing provision over the plan period is accounted for by four strategic developments proposed in the District Plan. These are located at:
- (i) Kings Way, Burgess Hill (to the east of the town) (policy DP8) for up to 480 new homes;
  - (ii) North and North-West of Burgess Hill, on land referred to as the Northern Arc (policy DP9) for approximately 3,500 additional homes;
  - (iii) Land to the East of Pease Pottage (policy DP10) for approximately 600 new homes (linked to addressing Crawley's unmet housing need); and
  - (iv) Land to the North of Clayton Mills, Hassocks (policy DP11) for approximately 500 new homes.
37. These four strategic sites comprise a total of 5,080 dwellings, representing a substantial proportion (30.9%) of the District Plan requirement for Mid Sussex.
38. The submitted Plan, policy SA10, also sets the scene in relation to numbers of housing completions, commitments through sites with planning permission, allocations made in Neighbourhood Plans (NPs) and a windfall allowance. This leaves a residual housing requirement, to be addressed in this Plan, which was estimated in District Plan policy DP4 to be 2,439 dwellings, and which has reduced over the period from April 2017 to the submission of this Plan, in December 2020, to 1,280 dwellings.
39. Policies SA12-SA33 allocate sites for a minimum of 1,764 units, resulting in an oversupply of 484 dwellings, or 2.95 per cent of the District Plan requirement. However, the Council updated this calculation and presented it towards the end of the hearing sessions<sup>7</sup>, in the following table (Table 3 Housing Supply), which I have amended slightly (see Note (1)):

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<sup>7</sup> Mid Sussex DC – Updated Housing Land Supply Trajectory; dated 11 June 2021 - Response to AP4 Matter 3.4 [Examination Document MSDC-06b].

	<b>Examination Update (as at April 2021)</b>
<b>District Plan Requirement</b>	<b>16,390</b>
Completions	6,033
Commitments (planning permissions, District Plan allocations and Neighbourhood Plan allocations)	9,140
Windfalls	420
Site Allocations DPD (1)	1,704
<b>Total supply during plan period</b>	<b>17,297</b>
<b>Over supply</b>	<b>+907</b>

Note (1) Allocation SA25 is reduced in total from 70 to 35 dwellings (MM1); therefore, the allocations total in this Plan is reduced from 1,764 to 1,704 dwellings.

40. The over-supply of 907 units amounts to a buffer of 5.5%, which, other things being equal, amounts to a reasonable amount of flexibility, and answers the representations of several parties, who expressed the view that the earlier figure of 2.95% was inadequate. Some representations object to the size of the oversupply, claiming it is unnecessary and therefore wasteful of land. However, national policy, as expressed in paragraph 74 of *the Framework*, talks about a 5% figure as being appropriate to ensure choice and competition in the market, and in my view the size of the buffer is not unreasonably high in relation to the housing needs of the District.
41. I assess below whether I consider the delivery rates of the proposed housing provision, including the strategic sites and the allocations (SA12-SA33) in the Plan, are realistic as well as the Council's assumptions around non-delivery and windfalls. But the 'basic maths' of the Council's housing provision is accepted in this report as a valid starting point for examining the quantum of housing provision for Mid Sussex.
42. It is important, however, for the Plan to illustrate the anticipated rate of housing development over the plan period, and this needs to be shown on a year-by-year basis, in accordance with paragraph 74 of *the Framework*. Modification **MM16** therefore includes the Council's trajectory for housing completions within the plan period. This is also an important tool for the effectiveness of the Plan.

43. In assessing the effectiveness of the Council's housing provision, I need to look at whether the following implementation rates are realistic:
- for the four strategic sites in the District Plan;
  - for the 22 allocations in the Plan;
  - for non-implementation; and
  - for windfalls.

### **The four strategic sites**

44. Concerns were expressed by representors as to whether the actual delivery of the quantum of housing provision proposed in Mid Sussex can match the Council's trajectory. The reliance on strategic sites is set in the District Plan, which was found to be sound; however, given the length of time that has elapsed since the adoption of the District Plan (March 2018), I consider the question to be a reasonable one to ask. I therefore requested the Council to provide me with an update of progress and future estimates of completions in relation to the four strategic sites, including comments from sources 'on the ground', such as site promoters and house builders.
45. The first of the strategic housing sites at Kings Way, Burgess Hill (policy DP8) has been under construction since 2015, and the necessary on-site and off-site infrastructure is now in place. Phases 1-3a, amounting to 235 units, have been completed, with a further 39 units in phase 3b under construction, averaging in the region of 47.5 dpa since the first dwellings were started. A full planning permission has been granted for a further 237 units to be implemented over the period 2022/23 – 2026/27. The total yield of 513 units will then have exceeded the original estimate in policy DP4 by 33 units. These figures and dates are all confirmed in a SCG signed between the Council and the developers<sup>8</sup>.
46. The second of the strategic housing sites is the Northern Arc, Burgess Hill (policy DP9). Concern was expressed by representors that the Plan is over-reliant on this strategic development, which alone accounts for 21.4% of the total housing requirement over the plan period. This concern is all the more pressing in the light of the lack of progress in relation to the delivery of housing on the ground, raising the serious prospect that the stalling of this development could derail the effectiveness of the Plan in delivering its overall housing target for Mid Sussex. This is critical to the soundness of this Plan, which in turn impacts on whether the residual housing requirement in this Plan is sufficient for soundness.

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<sup>8</sup> SCG between MSDC and Persimmon Homes regarding Kingsway, Burgess Hill, District Plan policy DP8 (480 units); signed 4 June 2021 [Examination Document AP3a].



47. The critical questions for this report to consider are first, what are the reasons why progress on this strategic housing allocation has been delayed? Also, what are the realistic prospects that District Plan allocation DP9 can deliver housing in significant numbers to ensure the soundness of the Plan? The Council has submitted a detailed Note and a SCG signed by the Council and Homes England in response to these concerns<sup>9</sup>.
48. The first major consideration in answering these questions is to look at what has happened since the adoption of the District Plan. Strategic sites, such as allocation DP9, often require considerable investment in major infrastructure prior to the development of any housing. From the evidence submitted, it is clear that there has been significant progress in this regard. Furthermore, there has been a positive impact on the delivery mechanism of the site and the financial backing of the allocation with Homes England taking over ownership of the site in July 2018 from three developers/promoters. Homes England has now assumed the role of key master developer delivery lead.
49. Within a few weeks of Homes England taking over, a masterplan was approved by the Council in September 2018 and outline planning consent was granted for 3,042 units in October 2019. A substantial amount of necessary infrastructure work to enable site delivery has been, and is being, undertaken, including securing permissions for the construction of two key roads – the Eastern Bridge Link Road and the Western Link Road, which together form the spine of the total development; both of these projects are scheduled for construction during the period late 2021-mid 2022. Other key infrastructure components include the up-grading of the A2300 (the major link to the A23 – work has already been completed by April 2022); investment in the Goddard's Green Wastewater Treatment Works (to secure odour mitigation by the end of 2021); and the first primary school (due to open in September 2023).
50. It is also unsurprising that the impact of Covid-19, something that could not have reasonably been foreseen during the preparation and examination of the District Plan, has taken its toll on the rate of progress. Another consideration which has to be factored in, due to its proximity to strategic allocation DP9, is allocation SA9 for the proposed STP, immediately to the west of the Northern Arc strategic housing site, for an estimated 2,500 jobs, necessitating its own significant and costly infrastructure which needs to be integrated with the Northern Arc proposals.

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<sup>9</sup> Council Note MSDC 05b [Action Point AP3b] in response to Matter 3.1 (iv) – SCG between MSDC and Homes England regarding the Northern Arc District Plan policy DP9 (3,500 homes); 9 June 2021.

51. The above mentioned Note and SCG have taken stock of the situation and revised the estimates of housing delivery that are in the District Plan housing trajectory. The initial estimate of 3,042 homes in the outline consent has now been reduced to 2,310, with the balance of 730 homes to be developed outside the plan period. The national document which addresses delivery of strategic sites – *Start to Finish*<sup>10</sup> – produced by Lichfields, which is regularly referred to in local plan examinations, states that the average lead times for large sites (500+) is around 36 months from obtaining planning permission to first dwelling completion (page 5 of the report).
52. However, *Start to Finish* covers sites across England and South Wales, and I cannot find any acknowledgement in the document that some parts of the country have greater pressures for housing development than others. This is especially relevant for areas such as Mid Sussex with its relatively close proximity to London, its high prosperity (about to be stimulated even further by the proposed STP), proximity to the coast and acknowledged high quality landscape.
53. I note that the first site to come on stream at the Northern Arc, at Freeks Farm, for 460 dwellings, has succeeded in reducing this time from 36 to 24 months. I also note that Homes England are in advanced negotiations with several phase 1 developers to deliver 653 homes with contracts to submit reserved matters applications within 100 days from the start of contract, using a number of contractual mechanisms. These include providing support for small builders through diversification, using methods of modern construction, simplifying procurement using Homes England's Building Lease arrangements which are contracted to deliver between 115% to 150% of the market rate.
54. I note the comments from some parties that even Homes England cannot influence market forces. Nevertheless, it is clear that Homes England has achieved faster delivery times than hitherto for the reasons set out above, and on this basis, I see no reason why the Council's revised projected delivery rates should not be considered realistic.
55. The evidence points to a significant upsurge in the building rate from hereon in. The above mentioned Note and SCG set out, in detail, scheme-by-scheme tables, and summarised in financial years, a projected delivery rate of 460 completions at Freeks Farm by 2025/26 and 2,310 homes on the remainder of the Northern Arc up to 2030/31, producing a combined total of 2,770 dwellings.
56. The third strategic site, at Pease Pottage (policy DP10) has yielded 199 completions since 2019/20. It is on track to deliver 619 dwellings by

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<sup>10</sup> Lichfields: *Start to Finish* – What factors affect the build-out rates of large scale housing sites? Second Edition; February 2020.

2023/24, i.e. a small surplus of 19 dwellings, well within the plan period. The relevant details are set out in a SCG between the Council and Thakeham Homes Ltd<sup>11</sup>, and I am satisfied that the dwellings completion rate is realistic.

57. The fourth strategic site, on land North of Clayton Mills, Hassocks (policy DP11) is programmed to deliver its full complement of 500 dwellings by 2028/29. The relevant details are set out in a SCG between the Council and Taylor Wimpey, and I am satisfied that the dwellings completion rate is realistic.
58. The updated evidence points to a reduced total for the four strategic sites during the plan period of 4,402 dwellings, down from the District Plan total of 5,080, i.e. a reduction of some 678 dwellings. I am satisfied, based on the above considerations, that the reduced total stands a realistic chance of being implemented over the plan period.

### **The residual site allocations and their distribution**

59. Most of the 22 housing allocations in the Plan were debated at the examination hearings, with a small minority attracting none or minimal comments or challenges regarding their soundness.
60. The distribution of the proposed 1,764 dwelling units in the 22 allocations in this Plan largely follows the strategic parameters for sustainable growth set out in policy DP4 of the District Plan. The District Plan Inspector's Report (IR) commented (Para 32) that the settlement hierarchy needed to provide sufficient guidance on the numerical distribution of housing for this Plan with a significant risk that unbalanced growth could take place in inappropriate locations or that growth in sustainable locations could be suppressed. The consequential changes to the District Plan's settlement strategy took this advice on board.
61. The District Plan, and in particular policy DP4, provides quantitative and qualitative strategic parameters which govern the overall distribution of settlements in Mid Sussex.
62. Firstly, a significant proportion of the residual housing and the majority of the employment land provision is focused in and around Burgess Hill, which, together with Haywards Heath, is one of the two most sustainable settlements in the District and which has the greatest opportunities for sustainable growth in Mid Sussex.
63. The District Plan also addresses some of the unmet housing need in North West Sussex (primarily Crawley).

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<sup>11</sup> MSDC 05c: SCG between MSDC and Thakeham Homes Ltd regarding Pease Pottage site policy DP10 (600 homes); 9 June 2021 [Examination Document AP3c]

64. District Plan policy DP4 also sets out a sustainable settlement hierarchy for Mid Sussex, providing numerical guidance (in dwelling numbers) over the plan period at five distinct levels, which are updated in policy SA10 in the submitted Plan as follows:
- Towns – 10,653 minimum required; updated minimum residual housing figure 706
  - Larger villages – 3,005 required; updated minimum residual housing figure 198
  - Medium sized villages – 2,200 required; updated minimum residual housing figure 371
  - Smaller villages – 82 required; updated minimum residual housing figure 5
  - Hamlets – windfall growth only
65. District Plan policy DP17 also states that the proposed distribution of housing in Mid Sussex can be implemented where it does not cause further harm to the integrity of Ashdown Forest SAC.
66. District Plan policy DP18 states that development that contributes to the setting of the SDNP will only be permitted where 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, and in particular should not adversely affect transitional open green spaces between the site and the boundary of the SDNP, and the views, outlook and aspect, into and out of the National Park by virtue of its location, scale, form or design.
67. District Plan policy DP16 states that small scale proposals which support the economy and social wellbeing of the AONB that are compatible with the conservation and enhancement of natural beauty will be supported.
68. The relationship of the distribution of the housing allocations in this Plan to the strategic parameters in the District Plan which I have outlined above was raised in several representations and debated at the hearing sessions. Clearly, significant departures from the strategic settlement distribution, in terms of either numbers of dwellings or principles of environmental sustainability, would amount to a soundness concern.
69. Several concerns in relation to the above strategic parameters were expressed during the examination and I deal with these below.

### **Concerns over the perceived overconcentration of housing allocations at Burgess Hill**

70. The Plan focuses a significant proportion of the residual housing allocations, totalling 642 dwellings, at Burgess Hill. This town is a highly sustainable settlement, and it is the primary focus for the District Plan housing strategy including the location of two of the four strategic housing sites (78.3% of the total of units), as well as being the location for the proposed STP and most of the other employment sites allocated in the Plan. The concentration of development, including housing, is clearly in accordance with the District Plan strategy.

### **Concerns over the perceived under-provision of housing at Haywards Heath**

71. Haywards Heath has almost the same population as Burgess Hill and is not the focus of a significant amount of new development proposed in the Plan. However, it is within close proximity to Burgess Hill for access to its services and facilities (although it is also a major service provider), and I note that it has received a large amount of recently consented development, some still in the pipeline. Again, the Plan reflects the District Plan strategy, which proposes no strategic housing sites at Haywards Heath, and for the above reasons it is my view that there are no soundness issues raised by the relatively low level of residual housing provision allocated at Haywards Heath.

### **Concerns over the increased focus of the Plan on the three main towns in relation to the District Plan strategy**

72. The allocations in the Plan for the three top tier (Category 1) settlements of Burgess Hill, Haywards Heath and East Grinstead almost double the updated minimal residual housing figure in the District Plan strategy; the submitted Plan allocates 1,409 dwelling units within and on the edge of the three main settlements, which is an increase of 703 units above the suggested amount in policy DP4. Given that these three towns are the most sustainable settlements in Mid Sussex, even the significant amount of additional housing focused on these towns is not contrary to the District Plan strategy of placing its emphasis on development in and around the main towns, and no soundness issues are raised by the increased focus on these three towns.

### **Concerns over the perceived overconcentration of housing for the East Grinstead/Crawley Down/Felbridge area**

73. The allocations in the Plan for the East Grinstead/Crawley Down/Felbridge area have raised concerns over impact of the two largest allocations, for 200 and 550 dwellings, on highways capacity and the lack of any employment allocations in this area. However,

employment opportunities exist in East Grinstead, whilst Crawley is a focal point for job opportunities (including Gatwick Airport) and is within easy commuting distance from this area. The Plan also allocates a few employment sites in the north of the District, near Copthorne and Pease Pottage. Impact on the highways network is acknowledged, although congestion is not considered by the Council or by West Sussex County Council (WSSCC) as the local highway authority to be at the level of 'severe', an issue which I consider in some detail later in this report. The evidence before me therefore indicates that these allocations sound.

### **Concerns over under-provision of allocated housing in the larger villages (local service centres)**

74. Policy SA10 updates District Plan policy DP4 and makes provision for an updated minimum residual housing figure of 198 units for the six second tier, larger villages; the submitted Plan allocates 105 units, i.e. a reduction of 93 units below the District Plan figure. However, the residual District Plan housing figure, as updated, represents a small percentage of the total District Plan provision for Mid Sussex, and the shortfall in the Plan before me, of 93 dwellings, is only 3.1 percent of the total District Plan provision for category 2 settlements, whilst three of the six settlements in this category have specific allocations and the remaining three villages – Copthorne, Hurstpierpoint and Lindfield - are located close to urban areas (Crawley, Hassocks and Haywards Heath respectively). For the above reasons, no soundness issues are raised by the level of provision in the larger villages.

### **Concerns over under-provision of allocated housing in the medium sized (third tier) villages**

75. Policy SA10 updates District Plan policy DP4 and provides for an updated minimum residual housing figure of 371 units for the 12 third tier, medium sized villages; the submitted Plan allocates 238 units, i.e. a reduction of 133 units below this figure. However, the residual District Plan figure, as updated, represents a small percentage of the total District Plan provision for Mid Sussex, and the shortfall in the Plan before me, of 133 dwellings, is only 6% of the total District Plan provision for category 3 settlements. Moreover, 8 of the 12 settlements in this category have specific allocations; of the remaining villages, West Hoathly is located within the 7 km Area of Influence around the Ashdown Forest SPA, Pease Pottage is the site of one of the 4 strategic housing sites and Balcombe is within the High Weald AONB and has a station situated on the London to Brighton railway with correspondingly good access to other housing areas. For the above reasons, I consider the level of provision in the Plan for the medium sized villages to be sound.

### **Concerns over the perceived impact of proposed housing allocations on the setting of the SDNP and the character and appearance of the High Weald AONB**

76. I will address these issues later in my report, and any initial conclusions set out in this section of my report will be subject to my conclusions in relation to these landscape-based issues.

### **Concerns over development in small villages and the open countryside**

77. Policy SA10 updates District Plan policy DP4 and provides for a very small updated minimum residual housing figure for the 5, 4<sup>th</sup> tier smaller villages, totalling 5 units; the submitted Plan allocates 12 units, an increase of 7 units above the updated suggested figure which still amounts to a very small total. Assumed growth in the smaller hamlets will be from windfalls only. This accords with District Plan policy DP15, which places a strict limitation on new homes in the countryside.

### **Residual allocations and their distribution - conclusion**

78. From the evidence before me, I am satisfied that the overall distribution of residual housing allocations is in general conformity with the strategic framework set out in policy DP4 of the District Plan.

### **Should an allowance for non-implementation be included in the Plan?**

79. The Council has applied a 40% non - implementation rate to small sites and this is borne out by the recent track record of planning permissions in Mid Sussex. (This is defined by the Council as being between 1-4 units inclusive). No consistent evidence is available to apply a standard rate to larger sites, which have been assessed individually. The implementation rate of the largest, strategic sites has been assessed in close liaison with the relevant developers (see above), and as I have already indicated, the estimated yields are considered to be realistic. It was also pointed out in representations that the overprovision of the Plan in relation to the residual requirement also provides cover for non-implementation, a point I accept.

80. Taking all these points into consideration, I am satisfied that an adequate allowance has been included in the Plan for non-implementation.

**Would the Plan at adoption be able to demonstrate that it has a 5-year housing land supply of specific, viable and deliverable sites to meet the Plan's requirements?**

81. In response to questioning during the examination hearing sessions, the Council updated its 5-year housing land supply statement<sup>12</sup>. This covers the 5-year period from 1 April 2021 to 31 March 2026, and has followed the requirements of national policy, as set out in paragraph 75 of *the Framework*. The statistical base for the calculations is the District Plan, which is less than 5 years old and which states (policy DP4) that the annual housing requirement for Mid Sussex is 876 dpa up to 2023/24, with a stepped trajectory which rises to 1,090 dpa between 2024/25-2030/2031.
82. I note that both the IR for the District Plan and the view of an Inspector at a recent appeal<sup>13</sup> have stated that the shortfall in the District should be spread over the plan period and not just over 5 years. One of the principal reasons given for spreading the shortfall over a longer period than the 'normal' 5 years is the time required to implement the large strategic sites, especially the Northern Arc, in order to ensure that major highways and other elements of infrastructure are in place prior to housing completions in any numbers, and this factor of course is also linked to the adoption of a stepped housing trajectory. I am therefore satisfied that spreading the shortfall out over the rest of the plan period, sometimes referred to as the 'Liverpool' method, is appropriate for Mid Sussex (as opposed to the 'Sedgefield' method, which requires the entire shortfall to be included within the five year calculation).
83. The total shortfall over the period since the start point of the District Plan in 2014 is 99 dwellings, whilst the completions in the two most recent years has exceeded the annual requirement (+127 dwellings in 2018/19 and +240 dwellings in 2020/21). I therefore agree with the Council that this amount of shortfall justifies applying a 5% buffer over the remainder of the plan period. I note that the Council's 5-year requirement, taking these factors into consideration (including three years at 876 dpa and the remaining two years at 1,060 dpa) is 5,100 dwellings.
84. The Council's summarised calculation<sup>14</sup> gives a 5-year land supply figure of 5.59 years. The Council has also included an appendix to this document, which is a detailed site-by-site analysis of every planning permission, including sites under construction, major (10+ dwellings) and minor sites, together with an assessment of site allocations which it is considered are likely to yield dwellings within the 5-year period. I am

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<sup>12</sup> MSDC 06a Response to AP4 Matter 3.4: Housing Land Supply – 5 year Housing Land Supply Statement; 11 June 2021 [Examination Document AP4].

<sup>13</sup> Appeal – Land off London Road, Bolney APP/D3830/W/19/3231997.

<sup>14</sup> Calculation table at para 5.1 of Examination Document AP4 (MSDC 06a).



satisfied that this level of detail is sufficient to demonstrate that the Council's estimates on future delivery are reliable beyond reasonable doubt.

85. I have noted the concerns of some parties that the delivery rates assumed by the Council are optimistic and unrealistic. However, progress on major infrastructure in relation to the strategic sites (especially in relation to the Northern Arc, for example completion of the two link roads), appears from reading the SCGs, to have reached the point where predictions on the delivery of homes can be made with more certainty than hitherto. It should also be borne in mind that the calculation of supply is not an exact science, with the impact of Covid-19 a case in point.
86. On the basis of the above considerations, I am satisfied that the Council can demonstrate, to a reasonable degree of certainty, a 5-year supply of housing land to meet the Plan's requirements.

**Is the reliance in the Plan on windfall sites (504 dwellings or 84 dpa for the rest of the plan period) realistic?**

87. Paragraph 69 of *the Framework* states that, as part of promoting a good mix of small and medium sized sites, local planning authorities should support the development of windfall sites through their policies and decisions. However, paragraph 71 also states that where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply.
88. The District Plan establishes the principle of including a windfall allowance, which was calculated at 45 dpa during the examination of that Plan. The Council updated its windfall analysis as input to this Plan<sup>15</sup>, with detailed checks to ensure no double counting, and applying a discount of 20 per cent to the total completions figure, to be consistent with the 2015 study.
89. It is clear from the updated analysis of small sites completions (1-9 units) that the number of completions has exceeded 100 dpa continuously since 2015/2016, and the increase in the windfall allowance in the Plan from 45 to 84 dpa is a conservative estimate, which is highly likely to be exceeded. I therefore conclude that the increase of the windfall reliance to 84 dpa is realistic.

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<sup>15</sup> MSDC Windfall Study Update; July 2020 [Examination Document H1].

## **Are the qualitative aspects of housing supply sound?**

90. The Council argued in its MIQ response<sup>16</sup>, that, as this Plan is a 'daughter document' of the District Plan, all sites are required to meet the policy requirements of the District Plan in relation to affordable housing (AH) (policy DP31) and accessible housing (policy DP28), and that the District Plan determined that there is no requirement for student housing in Mid Sussex. I accept that these are not matters within the scope of this Plan.
91. The Council, in its response to the MIQs, states that through its District Plan policy DP30, it is proposing that site SA20 (South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead) may include accommodation for Gypsies, Travellers and Travelling Showpeople. This would contribute to meeting the identified needs set out in the District Plan, alongside the strategic sites allocated in that Plan. The Council's Local Development Scheme sets out that as part of the District Plan Review, a new needs assessment for Gypsy and Travellers and Travelling Showpeople will be undertaken alongside a review of the approach to delivering culturally suitable accommodation. I understand that this work is underway.

## **Older persons' housing**

92. In relation to older persons' housing, the Council's view is that it was not necessary to allocate sites for Use Class C2 (residential institutions, including residential care homes), other than that sought in allocation SA20, because District Plan policy DP30 enables specialist accommodation to come forward; it states that there are no indications of significant unmet need or excess demand within the District; and apart from allocation SA20, no suitable sites have been identified. The Council also explained that work has already commenced on the District Plan Review, which among other things, will focus on specialist accommodation needs for older people.
93. The Council's argument that there are no indications of significant unmet demand appears to be based on its topic paper for housing for older people<sup>17</sup>, which stated that there was a surplus of C2 accommodation and no immediate or unmet need for this type of accommodation in Mid Sussex at this point.
94. The recent appeal decision in relation to a proposal for an extra care development of up to 84 units at Albourne (within Use Class C2), plus associated communal facilities and associated development and

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<sup>16</sup> MSDC Matter 3- Quantitative and Qualitative aspects of housing provision (except 3.3); 14 May 2021 [Examination Document MSDC-02c (i)].

<sup>17</sup> MSDC: Site Allocations DPD-Housing for Older People Topic Paper; December 2020 [Examination Document TP4].

landscaping<sup>18</sup>, however, challenges the Council's position with regard to older persons' housing. It underlines the importance of providing for older persons' housing as set out both in paragraph 62 of *the Framework*, and also in the Planning Practice Guidance, which stresses that the need to provide housing for older people is critical in view of the rising numbers in the overall population. Moreover, these numbers are set to increase significantly in Mid Sussex during the rest of the plan period, with no signs of slowing down.

95. Paragraph 21 of the above appeal decision refers to District Plan policy DP30 (Housing Mix), which states that if a shortfall is identified in the supply of specialist accommodation and care homes falling within Use Class C2 to meet the demands of the District, the Council will consider allocating sites for such uses through a Site Allocations Document. There can therefore be no doubt that the provision of older persons' housing falls within the scope of this examination. Moreover, there have been no relevant material changes in planning policy since the Albourne appeal decision. It is therefore clear to me that, following this decision, the issue of providing specialised accommodation for older people is an important issue which needs to be addressed as a matter of urgency in this Plan.
96. Policy DP30 predicates the requirement of this Plan, considering the need for older persons' housing, on whether a shortfall in the provision of such housing has been identified within Mid Sussex. The Albourne decision not only points to a shortfall in older persons' accommodation in Mid Sussex but also to the fact that the Council's data base is out-of-date, a point the Council conceded at the Albourne Inquiry, especially as 68 extra care units have been demolished since 2014. This takes into account an established tool for assessing the need for specialist housing for older people<sup>19</sup>, which identifies an assumed 'provision rate' of 25 units required per 1,000 of the population over 75 years old, or 2.5%. Another paper referred to in the Albourne decision, *Housing in Later Life*, increases the provision rate to 4.5%. Based on the lower rate of 2.5%, this indicates a demand for 386 extra care units in 2020.
97. Although the Council's assessment of extra care housing was set at 73% rent and 27% purchase, I agree with the Albourne appeal Inspector's assessment, that the need in an area like Mid Sussex is more appropriately estimated at about 60% rent and 40% purchase,

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<sup>18</sup> Appeal Decision Ref APP/D3830/W/19/3241644 – Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL, for extra care development of up to 84 units, all within Use Class C2, etc, outline planning permission allowed on 11 September 2020.

<sup>19</sup> Strategic Housing for Older People Analysis Tool (SHOP@) toolkit was used by the Council in its HEDNA (Housing and Economic Development Assessment Addendum, dated August 2016) based consideration of the housing needs of elderly people.

which more accurately reflects the fact that most older people in Mid Sussex are owner occupiers.

98. The evidence submitted by two of the parties with experience in providing for specialist older people's accommodation<sup>20</sup>, is that there is an identified need for at least 665 additional extra care units (Use Class C2) by 2030, of which 570 should be on leasehold. The Housing and Economic Development Needs Assessment (HEDNA) Addendum (August 2016) identified forecast demand for care homes (Use Class C2) in 2031 at 2,442 bedspaces. Even the Council's requirement for specialist older persons' accommodation, which is calculated at 386 units, is 244 units greater than its existing supply of 142 units.
99. Even the lower figure represents a significant level of unmet need for specialist older persons' housing in Mid Sussex. Policy SA20 is the only site allocation which refers to the inclusion of care homes within its total provision of 550 dwellings. This level of need in the District reinforces the need to address this issue more comprehensively within this Plan and not wait until any District Plan Review.
100. **MM3** introduces a new criteria-based District wide policy to provide for specialist accommodation for Older People and Care Homes within Mid Sussex. This policy would set out the identified need for specialist accommodation for older people and give a clear indication of support for proposals that will contribute to meeting the types of specialist accommodation identified in the HEDNA for Mid Sussex.
101. The new policy also includes key locational criteria, to encourage the provision of older people's accommodation in housing allocations within this Plan or a Neighbourhood Plan (NP), or within strategic allocations, or on sites within built up area boundaries. The policy also sets out sustainability criteria for the development of such specialist accommodation, including being well related to existing development, with appropriate access to or provision of services and facilities, and in locations where there would be the likelihood of reduced reliance on the private car. The policy also requires applications for such accommodation to be accompanied by a Travel Plan.
102. I have resisted requests to make the policy applicable across the District within rural areas away from the edges of built up areas. The requirement for new care homes to be located within sustainable locations is important, not just for the sake of the residents, but also for workers in care homes and visitors, in order to reduce car-based dependence where possible. This is especially important in a District

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<sup>20</sup> Barton Willmore and Turley, which set out their older persons' housing need statement in Document MSDC-15; 20 September 2021.

which experiences high levels of traffic congestion. There may well be areas within the country where meeting community needs such as housing the elderly may necessitate finding locations beyond existing settlements, as paragraph 85 of *the Framework* states, but in my view Mid Sussex has sufficient opportunities within and on the edge of established settlements for this not to be a necessity for this Plan.

103. The above policy thus sets out a target-based requirement for the Plan to achieve the necessary older persons' dwellings to address the significant shortfall of such accommodation in the District, within a sustainable context, in the interests of the positive preparation and justification of the Plan.
104. Policy SA20, for land to the south and west of Imberhorne Upper School, Imberhorne Lane, East Grinstead, whilst it makes provision for housing for older people, fails to indicate any quantitative provision for this use. **MM2** rectifies this lack of positive preparation by introducing a change in the policy to provide for a minimum of 142 older persons' dwellings in a 'care village' in a specific part of the site allocation facing Imberhorne Lane, which will be identified on the Policies Map.
105. I also do not accept the argument that locating older persons' dwellings facing a busy road is unacceptable or insensitive to the needs and expectations of older people. Nor do I accept that the site is unsustainably located in relation to services for older people. Moreover, policy SA20 makes provision for the expansion of local GP services, possibly on-site, or through a Section 106 contribution.

## **Issue 2 - Conclusion**

106. From the evidence before me, I conclude in relation to Issue 2, that, subject to the above modifications, the Plan is positively prepared, justified and effective and is likely to deliver both the quantitative and qualitative aspects of housing provision which are provided for in the District Plan to meet Mid Sussex's requirements over the plan period in accordance with national policy.

## **Issue 3 - Are the proposed housing site allocations justified and deliverable?**

### **Allocations in and around Burgess Hill**

107. The District Plan identifies the town of Burgess Hill as the main focus for new development in the District over the plan period, and to this end it designates two of the four strategic housing allocations on the edge of the town, totalling 3,980 dwellings, plus, at a short distance

away to the west, the proposed STP, which is an allocation in this plan (SA9), for approximately 2,500 jobs. In addition to its strategic housing provision, Burgess Hill is also a focus of the residual housing provision proposed in this Plan. Out of the 1,764 residual housing units allocated in the Plan, 612 dwellings (35%) are proposed on six sites within and on the fringes of Burgess Hill. I assess these sites below.

**Policy SA12 - Land South of 96 Folders Lane, Burgess Hill – 40 dwellings; and policy SA13 - Land East of Keymer Road and South of Folders Lane, Burgess Hill – 300 dwellings**

108. These two greenfield sites are situated close to each other on the south-east fringes of the Burgess Hill urban area, and they are separated by three small lakes. Site SA12, to the east of the lakes, forms a continuation of a housing development already under construction by the same housebuilder, immediately to the west of the site and the intention is for a shared access onto Folders Lane. Site SA13 is controlled by two housebuilders. Both allocations are important for the Plan, as they comprise a significant proportion of the residual housing total (nearly 20%), closely located to what is regarded as one of the two most sustainable settlements in the District, and all three builders have given strong indications that they intend to fully implement their schemes within the first five years of the plan period. It is probably realistic to assume that a proportion of allocation SA13 would be delivered in years 6-10, as set out in the Council's Updated Housing Land Supply Trajectory<sup>21</sup>.

Highways

109. Regarding traffic impact on the surrounding highways network, concerns were expressed in particular on the cumulative impacts of the two allocations on highway safety and congestion on the Burgess Hill morning peak in the south-eastern parts of the town. The Station Road railway bridge was identified by some as the choke point, together with congestion already experienced at several other locations, such as at the Keymer Road/Folders Lane junction. Concerns were also expressed regarding the impact of the proposed development on the road between Burgess Hill and the rural settlements of Hassocks and Keymer, to the south.

110. The Systra traffic model used to inform the Plan has been accepted as fit for purpose by WSCC (the local highways authority) and has been validated by National Highways (formerly Highways England), and I see no grounds from evidence submitted at the examination to pronounce this model to be flawed. WSCC clarified that the Systra

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<sup>21</sup> Examination Document MSDC-06b.

study methodology also included the impact of planning commitments within its reference case.

111. Whilst the local highways authority confirmed that the Keymer Road/Folders Lane junction would operate at overcapacity in the '2031 plus committed development' scenario, and whilst queue length and waiting time would increase, its critical finding is that the traffic impact arising from policy SA12 and SA13 would not be 'severe'. This finding is important, bearing in mind that national policy, as expressed in paragraph 111 of *the Framework*, states that: "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*". Indeed, the application of whether the highways impact would be 'severe', was debated fully during the examination hearings, and is dealt with in some detail in the Council's Matter 6 statement in response to the MIQ questions<sup>22</sup>.
112. The local highways authority has already considered a withdrawn planning application for a similar scheme on the SA12 allocation site and raised no highways objections in relation to the proposed quantum or access arrangements for this development. Also, no objection has been raised by the local highway authority in relation to the development proposed for Site SA13.
113. The SA13 developers have also commissioned a Highways Appraisal<sup>23</sup> which demonstrates that the site access from Keymer Road could be suitably widened and extended into the allocation and could cater, in capacity and safety terms, for the additional dwellings proposed for policy SA13. The Appraisal also demonstrates that there would be adequate provision for pedestrians and cyclists and that emergency access would be achievable. Although a bus service accessing from within the site is not envisaged, the Appraisal notes that the development would provide material contributions towards improved bus infrastructure, both at the bus stops on Keymer Road and Folders Lane, and at Burgess Hill Station.
114. The highways evidence from WSCC and the scheme promoters also points to scope for increasing the sustainable mode share of traffic generated by the proposed development at sites SA12 and SA13, which are located on the edge of one of the most sustainable settlements in Mid Sussex. In particular, these sites are located within easy walking distance of the town's railway station which has

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<sup>22</sup> MSDC: Site Allocations DPD: Matter 6 – Transport, Infrastructure, Implementation, Modelling; 14 May 2021 [Examination Document MSDC-02f].

<sup>23</sup> Odyssey: Highways Appraisal, Keymer Road, Burgess Hill; July 2020 [Examination Document SA13.4].

frequent train services to London, Brighton and several other towns in Sussex.

115. The sites are also relatively close to Burgess Hill town centre, schools and a range of other community facilities and services. Moreover, there is realistic potential to introduce footpaths, cycleways and bus service improvements to serve these developments, which the scheme developers aim to implement. Another significant consideration is that, if policies SA12 and especially SA13 were deleted from the Plan, it is highly unlikely that a similar quantum of housing development could be located within an equally sustainable location within Mid Sussex.
116. The highway authority's estimate of a likely switch to a more sustainable mode share as a result of the developers' proposals was put at 1.5%, based on evidence included in the Mid Sussex Transport Study (MSTS). Moreover, the highways officers at the examination hearings stressed that this was a conservative estimate.
117. In summary, in relation to traffic impact, the sustainable location of the two sites on the edge of Burgess Hill, close to the town centre, employment opportunities, main services, railway station and bus routes, coupled with the Systra study finding that these developments would not result in unacceptable, 'severe' traffic congestion, together with the likely switch of the order of at least 1.5% to a more sustainable mode share of the traffic generated by the two allocations, amount to a compelling argument in support of these allocations within the Plan.
118. Policies SA12 and SA13 both require a strategy to provide sustainable transport infrastructure, which, among other things would demonstrate how the developments would integrate with the existing highways network and provide safe and convenient routes for walking, cycling and public transport to serve the development.
119. Given these findings, alongside my findings on related issues under Issue 6 later in the report, I consider that policies SA12 and SA13 are sound in relation to highway matters.

#### Character and appearance

120. In terms of the impact of the developments on the setting of the SDNP, the South Downs National Park Authority (SDNPA) has indicated at several stages in the formulation of the Plan, that both allocations SA12 and SA13 would erode the rural buffer between Burgess Hill and the SDNP, with the implication that this would be harmful to the character and appearance of the National Park itself.



However, the SCG signed between the Council and SDNPA<sup>24</sup>, and the recent SCG signed by these two parties and also by the potential developers<sup>25</sup>, state that the parties agree that both sites are able to accommodate some development without harming the National Park.

121. The SDNPA indicates in the SCGs that its concern is principally with regard to allocation SA13, and I agree with this view. The SDNPA also accepted at the examination hearings that both Sites SA12 and SA13 could accommodate some development without harmful impacts on the setting of the National Park.
122. In terms of close impact on the National Park, neither allocation abuts the SDNP boundary, and although they both occupy countryside to the south of the built up area of Burgess Hill, neither is located within land which has a formal landscape designation in any development plan. All parties, however, agree that the character of the countryside in the vicinity of the two allocations, which is identified as part of the Low Weald, is considered to be visually attractive, with multiple hedgerows and trees, historic field patterns and a relatively undisturbed, gently undulating topography.
123. The closer of the two allocations to the SDNP, at site SA13, lies some 139m away from the nearest National Park boundary to the south of Wellhouse Lane, whilst site SA12 is located 185m away from the nearest National Park boundary to the south-west, and is 211m away from the boundary from a point due south. The relationship between allocation SA13 and the National Park boundary is also significant because Wellhouse Lane runs to the south of a line of dwellings, which in their maturely landscaped setting, would effectively form a low density visual barrier between the proposed development and the edge of the National Park.
124. It is critically important that all relevant authorities, including Mid Sussex District Council (MSDC), are required to have regard to the purpose of the SDNP. This is set out in Section 62 of the Environment Act 1995, which states that the first purpose of the National Park is: "*to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.*" The SCGs referred to above demonstrate that their signatories are committed to ensuring that all new development respects the setting of the SDNP, and to this end, they demonstrate that the parties have worked together to make policies SA12 and SA13 more sensitive to their potential impact on the SDNP and to introduce more effective mitigation than they were hitherto.

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<sup>24</sup> SCG-Update to Memorandum of Understanding January 2016 and SCG 2018 between MSDC and SDNPA, dated 7 August 2020 [Examination Document DC11].

<sup>25</sup> Document MSDC-20 SCG in relation to SA12 and SA13; 12 October 2021.

125. In order to minimise impact on the setting of the National Park, the following changes at the Regulation 18 and 19 consultation stages have therefore been introduced:
- In relation to both policies SA12 and SA13 - Inclusion of reference to the setting of the SDNP in both policies; and inclusion of a requirement for any external lighting scheme to be designed to minimise light spillage to protect dark night skies in both policies.
  - In respect of policy SA13 – Locate lower density development towards the southern end of the allocation to reflect the existing settlement pattern; ensure the design and layout works with the natural grain of the landscape; and substantially enhance the landscape structure and respect historic field boundaries with native tree planting throughout the layout to contain the new housing and limit the impact on the wider landscape.
  - In respect of policy SA GEN - include a specific requirement outlining the importance of a landscape-led approach for development.
126. These requirements of policies SA12 and SA13 significantly reduce their impact on the surrounding landscape and are necessary for the positive preparation and justification of the Plan.
127. The SCGs also explain that a number of landscape appraisals, including a Landscape and Visual Impact Assessment (LVIA) have been undertaken, to inform site layout, capacity and mitigation requirements, and that the undertaking of LVIA is a requirement of both policies SA12 and SA13. In summary, LVIA's have been produced on the instructions of the site promoters for SA12 and for SA13, as well as a report commissioned by MSDC<sup>26</sup>, which is more high-level than a 'mainstream' LVIA, but nevertheless is considered to follow the SDNP's Sensitivity and Capacity Guidelines.
128. I agree with the opinion expressed by the Council and the site promoters that the report for Mid Sussex District Council provides an indication of the scale of development that could be acceptable in terms of landscape and visual character on all or part of a site and assesses the level of landscape suitability that would apply to that scale of development. I also consider that sufficient and proportionate evidence has been prepared and submitted to the examination in relation to both the principle of the two allocations and the housing yields proposed.

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<sup>26</sup> LUC: Mid Sussex District SHLAA: Review of Landscape and Visual Aspects of Site Suitability; January 2015.

129. The most recent SCG<sup>27</sup> also includes an Opportunities and Constraints Plan (OCP), which sets out in some detail the principal sensitivities of site SA13 in relation to the setting of the SDNP, recognising that these sensitivities increase towards the south of the site. In order to ensure policy SA13 is in line with the need to respect these sensitivities, **MM4** includes a reference in the policy to the principal findings of the OCP, which a future LVIA at the planning application stage will need to refer to. This modification is necessary for the positive preparation of the Plan in such a critically sensitive area and taking account of the requirement in paragraph 176 of *the Framework*, which draws attention to the need for development within the setting of National Parks to be sensitively located and designed to avoid or minimise adverse impacts on these areas.
130. I note that several representations refer to the need for the landscape sensitivities of the site to be understood before the layout is finalised. I am satisfied that policy SA13, together with the requirement in **MM4** to incorporate the findings of the OCP and the LVIA, will ensure that the final layout on allocation SA13 will be genuinely landscape-led.
131. Concern has been expressed that the 300 dwelling total proposed for SA13 is too high to enable the required degree of landscape integration to minimise harm to the adjacent landscape. However, allocation SA13 could accommodate around 450 dwellings, at a density of around 30 dph. It could have yielded an even greater dwelling total, given that the LUC classification of development yield extends to 50 dph for medium density developments, if the principal criterion had been to make the most efficient use of land in a typical suburban development, which itself is a national policy objective. The proposed density of 19.73 dph for allocation SA13, i.e. at a significantly reduced density, is classified as within the LUC 'low-medium' density classification, which gives a strong indication that the allocation has been prepared along landscape-led principles.
132. Concern has also been expressed that allocations SA12 and SA13 extend the urban area into open countryside and erode the rural gap between Burgess Hill and the smaller settlement of Keymer. It is an axiomatic point, however, that any development which extends the urban area of a settlement into hitherto open countryside will by its very nature have some impact on the character of the land it is extending into; at the least, rural land will become urban. This cannot, however, be an argument on its own to stop the incremental development of settlements, especially in view of the national objective, as set out in paragraph 60 of *the Framework* of significantly boosting the supply of homes.

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<sup>27</sup> Examination Document MSDC-20.

133. What does matter, however, is whether such development on the edges of towns such as Burgess Hill, is intrinsically harmful in terms of its visual impact. I have explained above that I do not agree that it is harmful, subject to the above-mentioned modification, that this is the case here and that policies SA12 and SA13 address this issue in a proactive and sensitive way.
134. Clearly, the length of the gaps between Burgess Hill and Keymer and Ditchling will be reduced by the implementation of policies SA12 and SA13, but a pronounced gap still remains, and there is no merging of settlements resulting from these two allocations. As the Lizard study points out in relation to SA12, the wooded character of the landscape means that there is no obvious perception of the proximity of the settlements, and the same conclusion can be drawn in relation to SA13.
135. Concerns were expressed that none of the above mentioned visual assessments have addressed the impact of the two allocations on the setting of the National Park, as now required in paragraph 176 of *the Framework* (July 2021 version). However, the CSA study in relation to SA13 refers specifically to the setting of the SDNP at the end of section 4, concluding: *"In terms of the Site, there is no inter-visibility from within it (i.e., site SA13) to the nearby edge of the SDNP, owing to the densely vegetated intervening land... As a consequence, the Site itself plays a very limited role in contributing to the setting of the SDNP"*. From my own observations, both from locations in the intervening area between the allocations and the SDNP boundary, and from further afield, within the SDNP, I concur with the CSA study conclusions.
136. Furthermore, the Lizard study shows both allocations lying within a ridgeline which acts as a visual barrier from public viewpoints in the SDNP to the south. It refers to the LUC landscape study, commissioned by the Council for its Strategic Housing Land Availability Assessment (SHLAA) work, to inform the Council's housing strategy as input to the District Plan. The LUC study divides the relevant area of SA12 (SHLAA site 534) into three parts. Most of the allocation falls within one of these parts (Area B), which is considered to be of medium landscape suitability, accommodating a low-medium housing yield, whilst the southern part (Area A), approximating to a third of the site, is of low-medium landscape suitability, which could accommodate a medium-high housing yield.
137. Although the overall housing density of the allocation, at 23.25 dph, would fall just above the LUC classification of low-medium density (identified as 7-20 dph), the site has a well treed landscape including robust hedges and field boundaries. These features would ensure that a sensitively planned development, as required in policy SA12, would

not materially harm the character and appearance of the setting of the National Park in this locality.

138. Both allocations, however, are located some distance from the principal public viewpoints on higher ground on the main chalk ridge in the South Downs, such as at the Jack and Jill windmills at Clayton. Although conditions were cloudy on my accompanied site visit to this spot, the local landmark of Oldland Mill, a distinctive white windmill, was visible in the middle distance. I found this to be a useful reference point, about 3 km to the north/north-east of the Jack and Jill windmills. The overall impression, viewing to the north/north-east at this distance, is of a generally wooded area with buildings dotted in the landscape, especially associated with the small settlements of Keymer and Ditchling. It is not, however, a pristine, development-free landscape.
139. Sites SA12 and SA13 lie approximately 1.5 km further to the north of Oldland Mill, where any development would be set in the context of the town of Burgess Hill, forming an urban backdrop almost immediately to the north of the proposed allocations. It is clear from the above mentioned landscape studies at the proposed densities, and subject to the layouts being informed by the design and landscaping schemes required by both policies SA12 and SA13, including mitigating light spillage to protect the dark night skies and protecting the tranquillity of the area, that the proposed developments would not materially harm the setting of the SDNP. I also consider that they would merge with limited visibility into their immediate context when viewed from 5 km away on the South Downs, with effective screening from existing and proposed trees and from nearby properties.
140. In summary, on the basis of the above considerations, I consider that the visual impact of allocations SA12 and SA13 on the character and appearance of both the nearby countryside area and also on the setting of the SDNP, whether from nearby or further afield, subject to the above modification **MM4**, would not be harmful. This amounts to a further strong argument in support of their allocations within the Plan, both in principle and in terms of their proposed quantum of development.

### Ecology

141. Several additional concerns were expressed in representations regarding policies SA12 and SA13. In relation to impact of the allocations on the ecology of their respective sites, I note that the Preliminary Ecological Assessment<sup>28</sup> for SA12 identifies the site as

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<sup>28</sup> Lizard Ecological Appraisal Survey of Site SA12; June 2020 [Examination Document SA12.6].

semi-improved grassland with no rare or unusual plant species recorded. The assessment states that any loss of diversity could be compensated with a native planting scheme and suitable habitat creation areas to the landscape buffer areas to the site's boundaries.

142. Policy SA12 sets out a sustainable framework to ensure development will conserve and enhance areas of wildlife and ensure there is a net gain to biodiversity overall. I consider that the ecological assessment enables policy SA12 to achieve the sustainable framework which is outlined above.
143. In relation to allocation SA13, the Ecological Deliverability Report states that it is considered that there are no over-riding ecological constraints to development of the site, and that the proposed development could deliver biodiversity gain overall, in accordance with paragraphs 170, 174 and 175 of *the Framework* and policies DP37 and DP38 of the District Plan.<sup>29</sup> The report also states that in addition to habitat protection and avoidance, habitat creation and enhancement could be delivered, providing a net gain in species-rich hedgerow, broad-leaved woodland, wetlands (including ponds) and wildflower meadow.
144. On the basis of the evidence before me, I conclude that both allocations SA12 and SA13 can mitigate any ecological impact to an acceptable level.

#### Conclusion for allocations SA12 and SA13

145. Overall, I have considered highways and traffic impact, and impact on both character and appearance and ecology, and from assessing the overall sustainability considerations in relation to these sites, I conclude that, subject to the above modification, both allocations SA12 and SA13 are sound.

#### **Policy SA14 - Land to the South of Selby Close, Hammonds Ridge, Burgess Hill - 12 flats plus community use**

146. This urban site within Burgess Hill has good access to the town's facilities and services. As a flatted development on brownfield land, this is potentially an unviable site where the Benchmark Land Value (BLV) exceeds the residual value, which itself is a negative amount. The advice in the independently commissioned Viability Review<sup>30</sup> is that the Council should be cautious about developing sites such as SA14.

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<sup>29</sup> EAD Ecology: Ecological Deliverability Report for Keymer Road, Burgess Hill; July 2020 [Examination Document SA13.2].

<sup>30</sup> HDH Planning and Development Ltd: Site Allocations Document – Viability Review; September 2019.

147. Despite its poor viability, however, the Council, as landowner, expressed confidence that it would develop the site during the plan period, and the Viability Review advises that the current development environment in Mid Sussex is an active market in a relatively high value area, and the report expects that sites of this type (brownfield, flatted development) would be deliverable. The Council also stated that Southern Water does not have infrastructure crossing the site<sup>31</sup>, contrary to the perception of several developers and agents, the presence of which could have been a key factor affecting its land value.
148. Clearly, more work is needed to ensure the site is deliverable, including securing a detailed vehicular access, which could be achieved through the extension of the allocation up to the boundary with the existing properties to the north-east [MM19], which would be in the interests of the effectiveness of the Plan. Also, the proposed development, including the community facilities, and the provision of a layout that would safeguard the existing trees covered by a Group Tree Preservation Order to the south-west of the site (as stipulated in the explanatory text), would amount to a sustainable asset. Subject to the above modification, I consider allocation SA14 to be justified and effective, and that the allocation could be delivered in years 6-10 of the plan period.

### **Policy SA15 Land South of Southway, Burgess Hill – 30 dwellings**

149. This urban site within Burgess Hill enjoys good access to the town's facilities and services. It comprises a substantial section of overgrown woodland as part of an area designated as a Local Green Space (LGS) in the Burgess Hill NP. The existing open space is privately owned. It is likely to have some wildlife and visual value, although no evidence was presented as to how important it is in wildlife terms and it has no statutory wildlife or landscape designation as such. Whilst noting the existing LGS designation of the site, the nature of the open space cannot, in my view, be described as accessible, and I am unconvinced regarding the claim that the site functions as an important resource for the people of the town. Consequently, I am content that it is appropriate for policy SA15 to supersede the LGS designation, as shown on the Plan's supporting policies map.
150. The policy would open up the north-west part of the site for housing, and provide accessible open space on the eastern part, so that some of the site for the first time would be accessible to the public. The policy includes the retention of the existing footpath separating the

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<sup>31</sup> Evidence given by the Council on Day 4 of the examination hearings. Also, see Document C1 (Reg 22 Statement of Consultation) – Appendix 9: Summary of Responses (Regulation 19) – Policies (page 36).

two parts of the site. I note that the site forms part of an extensive system of open space, some of which is used for outdoor sports and which functions as an urban lung for Burgess Hill.

151. The site, which passes the viability assessment in the above mentioned Viability Review, is in single ownership and no constraints to implementation were raised. Vehicular access would be possible from the west. I therefore consider allocation SA15 to be justified and effective and that it could be delivered within years 1-5 of the plan period.

### **Policy SA16 - St Wilfrid's Catholic Primary School, School Close, Burgess Hill - 200 dwellings**

152. This site is in a central urban location, well served by public transport. It is the largest urban redevelopment site in the District. Although the policy provides for 200 dwellings, the latest housing estimates are for 200 units on the school site and an additional 100 units, elsewhere as part of a comprehensive development scheme, and **MM17** clarifies this point, in the interests of the positive preparation of this key brownfield site within Burgess Hill. There are several existing uses, and this is a challenging site to deliver, and I note the concerns expressed over deliverability within the plan period. The Viability Report identifies the site as unviable, with the residual land value falling some way short of the BLV.
153. However, the Viability Report figures<sup>32</sup> need to be placed in the following context: Firstly, there is a pressing need to relocate the school, which was described at the hearings as "*getting close to not fit for purpose*"<sup>33</sup>. The aim of the Diocese is to create a campus to accommodate both the relocated St Wilfrid's school and the nearby secondary school (St Paul's Catholic College). It would be unrealistic and inappropriate for the Plan to ignore this strong community driver.
154. Secondly, WSCC is leading on the master planning work for this site, work that is ongoing and which has already secured design and feasibility work funding, again indicating seriousness of intent and realistic expectation. This amounts to a strong agenda to move this redevelopment proposal forward.
155. Thirdly, it was reported at the hearings and subsequently confirmed by the Council in its update<sup>34</sup>, that the yield is now anticipated in the region of 300 units, 100 of which are already committed within the

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<sup>32</sup> See Table 5.4 in the Viability Report.

<sup>33</sup> Evidence given by the Council on Day 4 of the examination hearings. See also MSDC-07 Appendix 1.

<sup>34</sup> MSDC-07 Response to Action Point 5 – Matter 3.3: St Wilfrid's Catholic Primary School, School Close, Burgess Hill; 5 August 2021.



'made' NP. This should significantly enhance the residential land value of the site from the figure in the Viability Report.

156. The policy is also in accordance with Burgess Hill NP's policy TC3 for the Brow Area of the town and the Council has indicated that there are no significant infrastructure requirements which amount to 'showstoppers' which could impact on the deliverability of the site<sup>35</sup>. WSCC has indicated that no highway access issues have been identified in the Strategic Transport Assessment (TA), and a detailed TA will be required at the planning application stage to ensure highway safety including safe access is achieved to serve the new site. Surface water run-off is to be minimised, incorporating Sustainable Drainage Systems (SuDS), to ensure that flood risk is not increased. Any contamination is required to be addressed in the policy.
157. On the basis of the above matters and subject to the proposed modification, I consider that policy SA16 is sound and that the housing in the allocation could be delivered in years 6-10 of the plan period.

### **Policy SA17 - Woodfield House, Isaac's Lane, Burgess Hill – 30 dwellings**

158. This site is situated in open countryside to the north-west of Burgess Hill, but it would be located on the edge of the built up area of the town once the Northern Arc Strategic Site is completed, which will border it on three sides. The site has no significant infrastructure requirements or access difficulties, and it lends itself to being landscape led. It will have good access to services once the Northern Arc has been completed. For the above reasons I consider policy SA17 is sound. The allocation could be delivered in years 1-5 of the plan period.

### **Allocations in and around East Grinstead**

159. The town of East Grinstead is one of the three Category 1 towns identified in the District Plan to function as a principal focus for new development over the plan period, and to this end the Plan designates three housing allocations within and on the edge of the town, plus three additional allocations in nearby villages, totalling some 864 dwellings. I assess these sites below.

### **Policy SA18 - Former East Grinstead Police Station, College Lane, East Grinstead – 22 dwellings**

160. This small urban site within the town of East Grinstead has a parkland setting and has no significant infrastructure requirements. Allocation

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<sup>35</sup> MSDC Response to Matter 3.3 – Quantitative and Qualitative aspects of housing provision; 14 May 2021 [Examination Document MSDC-02c (ii)].

SA18, for 22 dwellings, has a safe and secure access, and enjoys close proximity to a comprehensive range of employment opportunities, services and facilities. A reinstated police station could be provided elsewhere in the town if the need arises in the future, although the police authority is keen to develop the site for housing. On the basis of the above evidence, I consider it is a sound allocation, and the housing could be delivered in years 6-10 of the plan period.

### **Policy SA19 - Land South of Crawley Down Road, Felbridge – 200 dwellings**

161. This allocation for 200 homes is located just over the border from the village of Felbridge in the neighbouring District of Tandridge in Surrey and would form an extension to this village. The TA for this allocation<sup>36</sup> commissioned by the site promoters indicates a satisfactory traffic audit. It is located on a bus corridor with a regular service to East Grinstead railway station and the town centre facilities and services, with plans for increased frequency and real time information at bus stops and some form of bus priority, possibly at key junctions. The site is also located less than a ten minute walk to the nearest school.
162. Concerns were expressed about both this allocation and the larger SA20 allocation (see below) that they might add to the alleged unacceptable, cumulative impact on the highway network in and around East Grinstead, and in particular on the busy A22, including the A22/A264 Felbridge junction. I heard at the hearings that appropriate opportunities to promote sustainable transport modes are being taken up by the scheme developers, supported by the local highways authority (WSCC) in relation to both allocations, and that safe and suitable vehicular access to these allocations can be achieved, with opportunities for cost effective mitigation.
163. Critically, paragraph 111 of *the Framework* sets a high bar to refusing development on highways grounds and indicates that residual cumulative impacts on the road network would need to be demonstrated as 'severe' for refusal to be justified.
164. The Systra traffic model evidence presented to the examination by WSCC, shows a worst case scenario when the impacts of allocations SA19 and SA20 are factored in. Also, the projected increases in traffic volume are not shown in the traffic model to be 'severe', whilst the traffic count figures on the A22 at Felbridge show a slight decrease in traffic from 2007 to 2019, with little change in numbers since then<sup>37</sup>.

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<sup>36</sup> Examination Document SA19.6.

<sup>37</sup> Evidence given on observed traffic count figures on the A22 between Felbridge junction and Imberhorne Lane junction over the period 2007-2019 by Guy Parfect from WSCC at the examination hearing session on Day 6 (11 June 2021).

Moreover, Systra's projected modal shift shows a small but positive increase in bus use, of around 2% on the A22, based on the measures planned to increase bus frequency on the A22 as referred to above.

165. A more general concern, levelled against both the main housing allocations in the East Grinstead area, is that the strategy is unbalanced, given that there is no corresponding employment land provision, implying that the Plan does not provide for a sustainable housing/employment balance in the north of the District. However, this area is within easy commuting distance of a wide variety of employment opportunities in Crawley, including Gatwick Airport, whilst the STP (considered in more detail later in this report) is projected to provide a significant number of high value jobs for the entire District and beyond.
166. I therefore consider that allocation SA19 is in a sustainable location on a bus corridor, and although the A22 is a busy main road, it is not deemed by the traffic modelling to be 'severe', whilst sustainable transport measures are likely to result in increased modal shift towards buses. The indicative phasing points to scheme implementation within years 1-5, although I note that the Council's updated housing land supply trajectory<sup>38</sup> indicates that the final 90 dwellings are forecast for delivery in 2026/27 and 2027/28. I am satisfied from the evidence submitted to the examination that the Council's trajectory in relation to policy SA19 is realistic.

### **Policy SA20 - Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead – 550 dwellings**

167. This allocation for 550 dwellings is located immediately to the west of the urban area of East Grinstead. As policy SA20 states, its objective is to deliver a high quality and sustainable extension to the town, which is informed by a landscape led masterplan. This large site has the potential to provide not only a significant amount of housing, including a specific allocation of a minimum of 142 older persons' dwellings in a 'care village' (see **MM2**), but it also has the capacity to deliver additional early years and primary education, play space to serve the wider community and strategic Suitable Alternative Natural Greenspace (SANG), to attract people away from the nearby Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC) (See Issue 4 for consideration of the management of the SANG).
168. This allocation, therefore, would deliver important public benefits for both East Grinstead and the wider area. Moreover, the site is in close proximity to a range of community facilities and services, as well as

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<sup>38</sup> Examination Document MSDC-06b.

being less than 1.5 km from East Grinstead town centre. On the basis of the evidence before me, I consider the site to be highly sustainable.

169. Although concerns were expressed over the ease of a land swap between WSCC and the farm owner, to enable the consolidation of the school campuses and playing fields, as well as to provide for an additional vehicular access to the allocation, the SCG between WSCC and the developers<sup>39</sup> sets out clearly how this will be achieved, with the Heads of Terms already having been agreed. I therefore do not regard the difficulties of this land swap as being insurmountable or even sufficiently serious as to significantly delay implementation.
170. The principal parties have demonstrated in the SCG that the important elements of vehicular access and education provision can be delivered, following the delivery of the new playing field land. I also note that the SCG is supported by the neighbouring Surrey County Council in relation to highways improvements and educational provision, with commitment to joint working to achieve these objectives during the plan period. Clearly, joint working is key to the successful implementation of this large scheme within the plan period.
171. As with the nearby allocation SA19, the impact of the scheme on the local highway network was debated at some length at the hearings. The Transport Appraisal for this allocation<sup>40</sup> commissioned by the site promoters, shows that the vehicular access arrangements are considered acceptable by WSCC, the local highway authority, and that the proposed highways improvement schemes would provide a strategic benefit to the highway network in and around East Grinstead (and in particular the operation of the A22). It is consistent with the findings of the Mid Sussex Transportation Study (MSTS) based on Systra, which has been validated in line with DfT's criteria and is therefore considered fit for purpose to assess the impact of developments identified within the Plan.
172. In addition to vehicular access, the scheme provides for multiple pedestrian access points and a direct cycle route to the town centre. The above mentioned transport appraisal also shows details of nine local bus services, which connect the site with East Grinstead Railway Station, the town centre, Crawley and other destinations in Sussex and Surrey. Finally, the appraisal shows details of how the existing Public Rights of Way within and around the site would be enhanced as part of the proposals for policy SA20.

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<sup>39</sup> SCG between WSCC and Welbeck Strategic Land LLP for Land South and West of Imberhorne Upper School, East Grinstead; June 2021 [Examination Document SA20.2].

<sup>40</sup> Imberhorne Farm, East Grinstead: Transport Appraisal by Pell Frischmann; 17 July 2020 [Examination Document SA20.4].

173. I therefore consider that, subject to the above modification, policy SA20 is positively prepared, justified, effective and reflects national policy. Although the Council's updated trajectory<sup>41</sup> indicates that most of the delivery will take place in years 6-10, I am satisfied from the evidence before me that a start will be made within years 1-5 and that there is a good prospect of the entire scheme being delivered within the plan period.

### **Policy SA22 - Land North of Burleigh Lane, Crawley Down – 50 dwellings**

174. This allocation for 50 dwellings is located on the southern edge of the settlement of Crawley Down. Concerns were expressed regarding the uncertainty of vehicular access, and associated with this, whether its delivery within the plan period was a realistic prospect. Clearly, without certainty of delivery, this policy would not be effective and would therefore be unsound. A SCG between MSDC and the site promoter<sup>42</sup> was submitted following the hearings to address this issue. It states that the preferred access is via Sycamore Lane and that the site promoter is actively progressing the solutions needed to gain control over the land required for access and is aiming to finalise any relevant agreement(s) by February 2022. On this basis, the SCG commits implementation of the development proposals for the site to a start in October 2023 with completion by August 2025.

175. On the basis of the SCG, modification **MM21** specifies the preferred vehicular access to be via Sycamore Lane, with failure to secure this meaning that the policy fails the test of effectiveness and therefore should be deleted from the Plan. Subject to the above modification, I consider the policy to be sound. Although the indicative phasing in the submitted Plan is for delivery in years 1-5, I consider that, in the light of the access issue referred to above, the Council's updated trajectory, which delays anticipated delivery until years 6-10, is more realistic.

### **Policy SA26 - Land South of Hammerwood Road, Ashurst Wood – 12 dwellings**

176. This allocation for 12 dwellings is located in a small village, which is a category 3 settlement, within the High Weald AONB. The policy sets out robust requirements to ensure that any impact of the development on the AONB to the north and the wider countryside will be effectively mitigated, and **MM8** ensures that the policy includes the requirement to conserve and enhance the landscape of the AONB, in line with national policy.

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<sup>41</sup> Examination Document MSDC-06b.

<sup>42</sup> SCG between MSDC and Merrow Wood: Proposed Allocation SA22 – Land North of Burleigh Lane, Crawley Down; August 2021 [Action Point 12].

177. There are no significant infrastructure issues in relation to the development of this site for housing, and I consider the policy to be sound. The indicative phasing is for delivery within years 6-10, which on the basis of the evidence seems to be realistic.

### **Policy SA32 - Withypitts Farm, Selsfield Road, Turners Hill – 16 dwellings**

178. This allocation for 16 dwellings is on a farmstead adjacent to the village of Turners Hill, which is a category 3 settlement. The redevelopment scheme would incorporate several existing, historic buildings as part of the overall scheme. There are no significant infrastructure issues and, subject to the provisions of policy SA32, this minor development in the High Weald AONB would not result in a significant impact on the quality of the landscape. The policy requires a LVIA, which will ensure any impact is not harmful to the AONB. Although the site is located within the Brick Clay (Wadhurst Clay) and the Building Stone (Ardingly and Cuckfield) Mineral Safeguarding Areas, this is not viewed as a binding constraint which might challenge the soundness of the policy, and for all the above reasons I consider the policy to be sound. I have no reason to question the indicative phasing in the submitted Plan for delivery to take place in years 6-10.

### **Allocations around Haywards Heath**

#### **Policy SA21 - Rogers Farm, Fox Hill, Haywards Heath – 25 dwellings**

179. This allocation for 25 dwellings is to the south of the town of Haywards Heath in open countryside, but it is sufficiently distant from Burgess Hill not to compromise the integrity of the strategic gap between the two towns. The site has no landscape policy designation, and it also has little ecological value. Policy SA21 requires the retention and enhancement of mature trees along the boundaries of the site, so as to minimise any impact on landscape and heritage assets to an acceptable level. There are also no significant infrastructure requirements, and highways impact related to the policy is not considered to be significant.

180. As with other allocations on greenfield sites on the edge of settlements, such as at allocations SA12 and SA13, it is axiomatic that any development which extends the urban area of a settlement into hitherto open countryside will, by its very nature, have some environmental impact; at the least, rural land will become urban. This cannot, however, be an argument on its own to stop the incremental development of settlements, especially in view of the national objective, as set out in paragraph 60 of the Framework of significantly boosting the supply of houses. This is also the only site proposed for

housing at Haywards Heath, which is one of the three principal settlements in the District.

181. On the basis of the above considerations, I conclude that policy SA21 is sound, and I have no reason to doubt the indicative phasing in the submitted Plan for delivery in years 1-5.

**Policy SA23 - Land at Hanlye Lane to the East of Ardingly Road, Cuckfield – 55 dwellings**

182. This allocation for 55 dwellings is located immediately to the east of the category 2 village of Cuckfield which has a wide variety of services and facilities. A SCG between the site promoters and the Council<sup>43</sup> underlines the willingness of the site promoters to bring the site forward for residential use in accordance with the requirements of policy SA23.
183. Although the site lies close to the High Weald AONB, there are no landscape designations covering the site itself. The site is physically separated from the wider AONB landscape to the north by its existing well vegetated framework. The policy sets out robust requirements to ensure that any impact of the development on the AONB to the north and the wider countryside is effectively mitigated, and **MM7** ensures that the policy includes the requirement to conserve and enhance the setting of the AONB, in line with national policy.
184. The southern field adjacent to the allocation is to be retained as public open space, and the policy requires a minimum buffer of 15m between the development and the adjacent Horsegate Wood ancient woodland, close to the south-east corner of the site.
185. I agree with the Council that, with the above provisions in place, it is not necessary to reduce the number of dwellings from 55 (33.3 dph) in the submitted allocation to around 20-30 dwellings (12-20 dph), as advocated by some parties at the hearings, including the Parish Council. On the basis of the above considerations, I conclude, subject to the above modification, that policy SA23 is sound, and I have no reason to doubt the indicative phasing in the submitted Plan for delivery in years 1-5.

**Policy SA31 - Land to the rear of Firlands, Church Road, Scaynes Hill – 20 dwellings**

186. This allocation for 20 dwellings is located at the north-eastern end of the village of Scaynes Hill, which is a category 3 settlement offering

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<sup>43</sup> SCG between Glenbeigh Developments Ltd and MSDC covering SA23 Land at Hanlye Lane, Cuckfield; 24 May 2021 [Examination Document SA23.8].

some key services. The site lies immediately behind a line of residential properties at Firlands and vehicular access to the side of the Firlands properties has now been secured. **MM18** makes provision for a dedicated pedestrian route into the village to an acceptable highway authority standard and is necessary in the interests of pedestrian safety and the positive preparation of the Plan.

187. Concerns were expressed in relation to restrictive covenants on the site. The Council explained, however, that the extent of these covenants amounted to only 0.6 ha out of a total of 2.2 ha covering the entire site, and the Council is confident that the scheme can be implemented without affecting the area controlled by the covenants. On this basis, and subject to the above modification, I conclude that policy SA31 is sound. The indicative phasing set out in the submitted Plan for delivery within years 1-5 appear to me to be realistic.

### **Policy SA33 - Ansty Cross Garage, Cuckfield Road, Ansty – 12 dwellings**

188. This allocation for 12 dwellings involves the redevelopment of a commercial garage and car parking area in the centre of the small village of Ansty, which is a category 4 settlement. There is a single convenience store nearby. A wide range of facilities and services, however, are available at Haywards Heath, just 3 km away. Paragraph 120 (c) of the Framework states that in order to make effective use of land, substantial weight should be given to the value of using suitable brownfield land, such as this site. A phase 1 contamination assessment will be required in order to implement the allocation.
189. I therefore consider this allocation to be highly sustainable and conclude that policy SA33 is sound. Its indicative phasing in the submitted Plan of delivery within years 6-10 would appear realistic in view of the need for redevelopment and contamination assessment.

### **Other Allocations**

#### **Policy SA24 - Land to the North of Shepherds Walk, Hassocks – 130 dwellings**

190. The allocation is for 130 dwellings, located to the north of Hassocks, which is a local service centre (Category 2 settlement), and which is also the location for one of the four strategic allocations provided for in the District Plan, North of Clayton Mills, for 500 dwellings. Delivery doubts relating to an alleged access ransom strip were raised in representations and at the hearing sessions, but no robust evidence on this was forthcoming. WSCC as local highway authority has



concluded that the proposed development would not have a 'severe' impact on the local highways network, and the site is within relatively easy walking distance to rail and bus services and local facilities and is therefore highly sustainable.

191. Flood risk will need to be managed in a sustainable way, which may impact on delivery until years 6-10 of the plan period. On the basis of the above evidence, I conclude that policy SA24 is positively prepared and justified.

### **Policy SA25 - Land West of Selsfield Road, Ardingly – 70 dwellings**

192. This allocation for 70 dwellings in the submitted Plan is located within the village of Ardingly, which is 'washed over' by the High Weald AONB. National policy, as expressed in paragraph 176 of *the Framework*, requires great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of national protection in relation to these issues. Allocation SA25, and in particular the proposed quantum of the housing proposed, was considered at some length in written representations and at the examination hearings.
193. In particular, it was debated whether, in the light of national policy as expressed in paragraph 177 of *the Framework*, the allocation could be considered to be minor or major development within the AONB; if the allocation is considered to be major, there would need to be exceptional circumstances which would justify the amount of housing proposed in policy SA25 and whether the development would be in the public interest.
194. Footnote 60 of *the Framework* addresses the question of whether a proposal is major development. It states that 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.*"
195. District Plan policy DP16 sets the strategic parameters for development within the High Weald AONB. It makes provision for small scale proposals which support the economy and social well-being of communities within the AONB, and which are also compatible with the conservation and enhancement of natural beauty. The context for Mid Sussex is that the AONB covers most of the northern part of the District, with the exception of an area which includes East Grinstead, Crawley Down and Copthorne, and that it is clearly important to enable the organic growth of settlements within the AONB wherever this is sustainable.

196. Ardingly is one such settlement within the AONB, identified as a Category 3 settlement, i.e. a medium sized village, which provides for limited services, and where small scale growth would be acceptable in principle. The Mid Sussex District Plan IR also states that some settlements: "*lie within the AONB and may be appropriate for modest housing schemes*"<sup>44</sup>. Clearly in a settlement like Ardingly, there is no scope for meeting local needs in close proximity to the settlement outside the AONB.
197. The Council's justification for its allocation of 70 dwellings in policy SA25 is set out in its Major Development in the High Weald AONB Topic Paper<sup>45</sup>. This paper explains that the original total of 100 dwellings to be allocated at Ardingly in the Regulation 18 consultation version was considered to be major development due to its scale and that development of the whole site would not fit the historic settlement pattern of Ardingly, which means that there would be an adverse impact on the High Weald AONB. The Council's assessment also concluded that there would be no exceptional circumstances for this development in the AONB at Ardingly because there are alternative locations outside the AONB.
198. In the revised policy SA25 in the submitted Plan, the overall size of the site remains the same as in the Regulation 18 version. However, the proposed built development is now limited to the eastern section of the allocation, with the western part to remain as open space, along the line of an old field boundary, which the Council considers is more in keeping with the historic settlement pattern of Ardingly than in the original allocation. The Council argues that the reduced size of the allocation to 70 dwellings in the submitted version is not regarded as major development.
199. I agree with the Council that no exceptional circumstances exist to justify a major housing development at Ardingly, primarily because of its location within the AONB and its modest settlement size. I therefore have to consider whether 70 dwellings can be justified as minor development, especially bearing in mind the guidelines in footnote 60 of *the Framework* and policy DP16 of the District Plan. I also agree with the Maurici Opinions<sup>46</sup>, which not only highlight national policy, including the above-mentioned footnote 60, but also refer to the High Court challenge in *Aston v SSCLG* [2013], where it was held that the word 'major' has a natural meaning in the English language, albeit not one that is precise<sup>47</sup>.

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<sup>44</sup> Mid Sussex District Plan IR para 53.

<sup>45</sup> MSDC Site Allocations DPD-Major Development in the High Weald AONB Topic Paper; December 2020 [Examination Document Topic Paper 1].

<sup>46</sup> Major Developments in National Parks by James Maurici QC, Landmark Chambers, which includes the so-called Maurici Opinions.

<sup>47</sup> *Aston v SSCLG* [2013] EWHC 1936 (Admin) – judgment by Wyn Williams J.

200. In terms of context, there is no doubt that the quantity of the allocation, at 70 units, exceeds what is needed locally in Ardingly. The Category 3 village has a small population, estimated at 1,910 inhabitants, and policy SA25, representing a 15% increase in the number of dwellings within the built-up boundary of the settlement, would not be proportionate to the size of the settlement, which only has a modest range of services and poor bus connections.
201. The overall housing requirement for the District, shown in the table at page 37 of the District Plan, indicates a minimum residual housing requirement (accounting for commitments and completions) for Ardingly of 29 dwellings. This figure is likely to have been reduced further through other commitments and completions in the intervening three plus years since the table was printed. I also note that the Ardingly NP indicated a need in the settlement of 37 dwellings to 2031, a figure which is also likely to have fallen in the intervening years. Based on the above information, it is my view that the quantum of development on allocation SA25 at Ardingly should not exceed 35 dwellings, i.e. half the number of homes proposed in the submitted Plan.
202. The Council and the site promoters argue that the visual impact of the proposal for 70 dwellings in the submitted policy SA25 on the AONB outside the village would be minimal, especially in the context of a robust landscape strategy. I have read and studied the Landscape and Visual Appraisal (LVA) which has been commissioned by the site owners and site promoters<sup>48</sup>. I largely agree with the LVA descriptions of the landforms, vegetation and tree cover, and the overall conclusion that a robust landscape strategy could ensure that landscape and visual effects are minimised.
203. However, it is also true that the allocation is located on a prominent, open plot with some visibility from areas outside the village, and in particular from the Ardingly Conservation Area to the west and south-west and the open countryside views towards the Ardingly Reservoir further to the west, both of which I observed on my site visit<sup>49</sup>. Whilst I do not agree that the allocation would result in the suburbanisation of the village, I do consider that it would impact adversely on its semi-rural setting, and on the visual containment of the area from the wider AONB landscape. In my view, these considerations render the

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<sup>48</sup> Huskisson Brown Associates: Landscape and Visual Appraisal relating to Land West of Selsfield Road, Ardingly, West Sussex, on behalf of Charterhouse Strategic Land and The South of England Agricultural Society; May 2020 [Examination Document SA25.4].

<sup>49</sup> The route of the partially accompanied site visit is indicated on the map submitted in response to Action Point 9, which shows the relationship of the allocation SA25 (edged red) to both the Conservation Area and the countryside to the west.

proposal for 70 dwellings 'major' development in my understanding of its natural meaning in the English language.

204. **MM1** therefore reduces the housing total for policy SA25 from 70 to 35 dwellings, at the same overall density as in the submitted Plan (i.e. about 20 dph), located at the eastern end of the original SA25 allocation, to enable the proposal to sit within the proper context of a small settlement in the High Weald AONB, in accordance with the requirements of national policy and policy DP16 of the District Plan. Allocating a smaller scheme to the east, nearer to Selsfield Road would increase the distance from both the Conservation Area and the wider AONB landscape to the west, whilst at the same time reducing its visual impact on the village and the landscape. These changes are necessary for policy SA25 to be consistent with national policy, both in relation to the scale of the village and its limited sustainability, and also in relation to its visual impact on the AONB.
205. The Council's updated housing land supply trajectory<sup>50</sup> points to policy SA25 being implemented within years 6-10 and I have no reason to take a different view.

### **Policy SA27 - Land at St Martin Close, Handcross – 35 dwellings**

206. This allocation is for 35 dwellings and is located at the western edge of the village of Handcross. Policy SA27 accords with the Slaughham NP, which allocates it as a reserve site. Although the site is located adjacent to a NP allocation for 30 dwellings within the High Weald AONB, the LVA commissioned by the site promoters<sup>51</sup> demonstrates that the triangular shaped site can be assimilated successfully into a natural hollow which is surrounded by mature woodland, including a substantial tree screen along its western edge. It also abuts existing and proposed development along its eastern boundary. I agree with the Council's assessment that the site is not to be regarded as major development within the context of paragraph 177 of *the Framework*. **MM9** ensures that the policy appropriately includes the requirement to conserve and enhance the landscape of the AONB, in line with national policy.
207. The site is also located within reasonable access of schools, healthcare and local services in the village of Handcross, which is a Category 3 settlement. No significant access or other infrastructure issues were raised during the examination. On the basis of the above considerations, I conclude that policy SA27 is sound. The indicative

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<sup>50</sup> Examination Document MSDC-06b.

<sup>51</sup> Lloyd Bore: Landscape and Visual Appraisal, St Martins Close West, Handcross, West Sussex; January 2020 [Examination Document SA27.1].

phasing in the submitted policy of delivery within years 6-10 is in my view reasonable.

### **Policy SA28 - Land South of the Old Police House, Birchgrove Road, Horsted Keynes – 25 dwellings**

208. This allocation is for 25 dwellings and forms a natural extension to the north-east of the village of Horsted Keynes. It is located within the High mature trees and hedges. **MM10** ensures that the policy appropriately includes the requirement to conserve and enhance the landscape of the AONB, in line with national policy.
209. The overall housing requirement for the District, shown in the table at page 37 of the District Plan, indicates a minimum residual housing requirement (accounting for commitments and completions) for Horsted Keynes of 53 dwellings, which approximates to the combined totals of the two allocations for this village (i.e. 25 dwellings for policy SA28 plus 30 dwellings for policy SA29). The scale of the housing allocations in the Plan for Horsted Keynes is therefore proportionate to the needs of the settlement, which is a category 3 village, with schools and other local services, although not particularly well served by bus services.
210. The LVIA which has been commissioned by the site promoters<sup>52</sup> concludes that the site is appropriately located for housing development and that in landscape and visual terms the site can accommodate up to 30 units without accruing harm. I agree with the findings of the LVIA, which accord with my own site visit observations, and I conclude that policy SA28 is positively prepared and justified. I have no reason to query the Council's anticipated delivery of the scheme within years 1-5 of the plan period.

### **Policy SA29 - Land South of St Stephens Church, Hamsland, Horsted Keynes – 30 dwellings**

211. This allocation is for 30 dwellings on the edge of the village of Horsted Keynes, and together with SA28, comprises a proportionate scale of housing provision for this settlement. Although the site is located in the High Weald AONB, the LVA commissioned by the site promoter<sup>53</sup> states that the proposed development would sit within a restricted, well contained visual envelope. From my site visit, I consider that the proposed development would sit well within the landscape and as a minor development it would not conflict with national AONB policy.

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<sup>52</sup> Aspect landscape Planning Ltd: Proposed Residential Development, Police House Field, Birchgrove Road, Horsted Keynes-Landscape and Visual Assessment; March 2020 [Examination Document SA28.2].

<sup>53</sup> Landscape Collective: Landscape and Visual Appraisal-Land South of St Stephen's Church, Horsted Keynes; January 2020 [Examination Document SA29.2].

**MM11** ensures that the policy appropriately includes the requirement to conserve and enhance the landscape of the AONB, in line with national policy.

212. Vehicular access would be via Hamsland. The principle of development on the site has been accepted by WSCC as local highways authority both in relation to highway safety and capacity, including the adequacy of the Hamsland carriageway width to accommodate the additional traffic. Although Hamsland is characterised by parked vehicles along one side of the road, this does not lead me to a different conclusion to that made by the local highway authority.
213. There was considerable discussion at the hearing sessions regarding the effectiveness of policy SA29. The technical documents submitted by the developers, however, including a Transport Statement, Road Safety Audit and Visibility Overlay Plan<sup>54</sup>, demonstrate that the road network can satisfactorily accommodate the traffic likely to be generated by the development, despite the existing on-street parking along Hamsland, with adequate visibility sight lines at the proposed access. Despite allegations to the contrary from third parties, these technical documents state that the proposed scheme is capable of implementation within land which is either under the control of the developers or is highway land, and I am satisfied from the level of detail submitted in these documents that the conclusions expressed above are robust.
214. Concerns were also expressed over the design and impact of the proposed vehicular access on existing trees along Hamsland, as well as the adequacy and safety of pedestrian access as a result of the proposed development. **MM20** addresses these concerns and therefore amends policy SA29 to require safe and convenient vehicular access, including for emergency services vehicles; to ensure satisfactory pedestrian access both along Hamsland and into the proposed development; and to afford adequate protection of the existing trees along the site boundary. This modification is necessary to ensure the policy is positively prepared, justified and effective. I conclude that subject to the above modifications, the policy is sound.
215. The indicative phasing in the submitted policy of delivery anticipated within years 1-5 may be optimistic in view of the considerations outlined above, however, I am satisfied that the scheme could be delivered within the plan period.

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<sup>54</sup> See Note for Inspector from Sigma Planning Services: Site SA29 St Stephen's Church, Horsted Keynes; 15 June 2021 [Examination Document – Response to Action Point 11].

### **Policy SA30 - Land to the North of Lyndon, Reeds Lane, Sayers Common – 35 dwellings**

216. The allocation is for 35 dwellings, located adjacent to the north-west edge of the village of Sayers Common. The proposed development would have no significant impact on the landscape and no significant access or infrastructure considerations were raised. Although access to schools and healthcare are over 20 minutes' walk away, there is a frequent bus service to Crawley with its many facilities and services. The site is located within the Brick Clay (Weald) Mineral Safeguarding Area; no evidence, however, was submitted that demonstrated that the site is required for further mineral extraction. On the basis of the above evidence, I conclude that policy SA30 is positively prepared and justified.
217. The indicative phasing of the scheme is for delivery within years 1-5 of the plan period, and I consider this to be a realistic expectation.

### **Issue 3 - Conclusion**

218. I conclude in relation to Issue 3 that with the required modifications, the proposed housing site allocations are justified and deliverable.

### **Issue 4 – Are the Plan's provisions for the protection and enhancement of the environment, including landscape, biodiversity and heritage aspects, justified and in accordance with national policy?**

#### **Are the environmental, landscape, biodiversity and heritage policies justified, effective and in accordance with national policy? Are any additional environmental policies needed?**

219. The Plan is the 'daughter document' of the District Plan, which has a wide range of policies that seek to protect and enhance the District's environment, including its landscape, biodiversity and heritage assets in accordance with national policy. These principles are reflected in policy SA GEN, which sets out the general principles for the site allocations, including a range of urban design principles, landscape, historic environment and cultural heritage considerations, as well as principles relating to air quality, light, noise and amenity, biodiversity and green infrastructure, sustainability and the relationship of the Plan to the Ashdown Forest. Furthermore, key environmental considerations are picked up and addressed in relevant SA policies.
220. As part of the preparation of the Plan, there has been extensive consultation with statutory consultees, such as Historic England,

Natural England, SDNPA, the High Weald AONB Unit and Sussex Wildlife Trust, who have largely been supportive of the stance taken in the Plan.

221. In response to concerns that climate change is not addressed in a single policy, the Council responded with a statement<sup>55</sup> in addition to contributions to the debate on this topic at the hearing sessions. Climate change is clearly referenced in the District Plan – in particular in policies DP39 on sustainable design and construction; DP40 on renewable energy schemes; DP41 on flood risk and drainage; and DP42 on water infrastructure and the water environment. In this Plan, climate change principles are covered across its policies, whilst the Council intends to include a comprehensive new climate change policy within its forthcoming District Plan Review. I am satisfied that many of the key responses to climate change are already covered in the Plan and that the Review is the most appropriate place to include a new bespoke, strategic policy on this important subject.

### **What is the justification for allocating the proposed number of dwellings in the High Weald AONB?**

222. District Plan policy DP16 sets the strategic stance of the District towards development in the High Weald AONB. Whilst seeking to protect the valued landscape of the AONB, the policy supports small scale proposals which support the economy and social well-being of communities within the AONB and that are compatible with the conservation and enhancement of natural beauty. Also, given that approximately half the area of the District is designated as AONB, it is not surprising that a proportion (around 9%) of the residual housing total for Mid Sussex which is allocated in this Plan should be located within this part of the District, in order to support local community-based needs.
223. A list of appeal decisions has been submitted in representations, which provide details on a range of schemes, and the size of their proposals in terms of dwelling numbers, in the AONB from different parts of the country. However, as paragraph 177 of *the Framework* points out, there are no benchmark housing totals given as appropriate or otherwise within the AONB, and, critically, context is all important. Within this national policy framework, I am therefore satisfied that, in the Mid Sussex context, subject to **MM1**, which reduces the housing quantum of SA25, from 70 to 35 dwellings within a settlement that is in the AONB, that all the housing allocations in the submitted Plan comply with the requirements of District Plan policy DP16, in that they are all modest (minor) schemes which do not cause harm to the AONB.

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<sup>55</sup> MSDC-12: Response to Action Point 15-Approach to Climate Change; 12 July 2021.



224. I also note the representations arguing that there is a significant prospect of land within the AONB being developed to meet the housing needs of the neighbouring Borough of Crawley, as has been done at Pease Pottage. This, however, is a strategic and important decision for the future Review of the Mid Sussex District Plan to make and it is therefore beyond the scope of this Plan and my report to address.

**Is policy SA38, which addresses air quality, justified and effective? In particular, are the proposed mitigation measures sufficiently effective to, in all likelihood, prevent adverse effects from proposed development on the Ashdown Forest SPA and SAC?**

225. I note that this policy will replace policy DP29 in the District Plan. I agree with the Council that this policy is important, given the growth proposals within the Plan and the fact that they are predicated on ensuring no further harm to the integrity of the unique ecology of the Ashdown Forest. The policy has been informed by air quality modelling, both in relation to the Stonepound Crossroads Air Quality Management Area (AQMA) and Ashdown Forest.

226. I note comments that the policy could be more complex and wide ranging, and it is of course open to the Council to consider such an approach when it prepares a future review of the District Plan. I do not, however, consider the policy to be merely platitudinous, as some parties hold, but I conclude that it is justified, effective and consistent with national policy.

**Do any of the proposed site allocations threaten to harm the setting of the South Downs National Park (SDNP), and if so, can effective mitigation be achieved?**

227. Paragraph 177 of *the Framework* states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. Policy DP18 of the District Plan sets out to protect the SDNP, and policy SA GEN sets out the general principles for ensuring site allocations do not impact adversely on matters of environmental importance.

228. The two allocations which have been the subject of ongoing dialogue between the Council and SDNPA are SA12 and SA13, and I deal with the principal concerns expressed by all the parties in Issue 3 above. I also note that the two principal parties referred to above have committed to continue to work together in the way they already have done to ensure the satisfactory protection and enhancement of the setting of the SDNP in future. Subject to the suggested modifications in relation to these two allocations (**MM4**), I consider that any potential harm to the setting of the SDNP resulting from these two allocations can be effectively mitigated.

**Is the provision of Suitable Alternative Natural Greenspace (SANG) justified and effective in reducing the likelihood of harmful visitor pressure on Ashdown Forest?**

229. District Plan policy DP17 sets out an avoidance and mitigation strategy for reducing the impact of recreational disturbance on Ashdown Forest. It is clear that the Council has prepared this policy and subsequently implemented it with the advice of Natural England (NE), who has stated it is supportive of the policy. Partnership work, in line with DTC, with neighbouring local authorities, the Conservators of Ashdown Forest, NE and other parties, is implementing a mitigation approach, based on SANGs measures, to be located within the 7 km Zone of Influence around the Ashdown Forest SPA, in addition to on-site SAMMS. These measures will help reduce the visitor pressure, especially by walkers and dogs, which increases as a result of new development within the Zone of Influence.
230. The Council, in partnership with the policy SA20 site promotor, is proposing a new strategic SANG in attractive countryside to augment the existing SANG at East Court & Ashplats Wood, East Grinstead, which I heard at the hearings was close to capacity.
231. In response to the discussion at the hearing sessions on the effectiveness of the Council's approach to SANGs, especially in taking pressure off Ashdown Forest, the Council submitted a comprehensive Note to explain its position<sup>56</sup> and answer some of the points made in critical representations.
232. In addition to the above points, the Council's Note explains a system of monitoring, which will allow adjustments to be made to the overall mitigation strategy if it is necessary to ensure its continued effectiveness. The Note also points to a combined yield of 940 dwellings<sup>57</sup> from 9 allocations within the 7 km Zone of Influence. 750 of these dwellings will be in very close proximity to the proposed strategic SANG, located immediately to the west of the proposed new dwellings in allocation SA20 and within easy walking distance to the south of SA19. At a minimum standard of 8 ha per 1,000 net increase in population, the proposed strategic SANG at site SA20, with an area of c.43 ha, would be able to serve a population several times in excess of the 940 dwellings proposed for the allocated sites in Mid Sussex, which lie within the 7km Zone of Influence around Ashdown Forest.
233. The suggestion to remove all allocations within 7 km of Ashdown Forest from the Plan would not enable the Plan to meet the needs of

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<sup>56</sup> MSDC-13: Response to Action Point 16 – matter 4.5: Provision of SANG; 8 September 2021.

<sup>57</sup> This takes account of the 35 dwelling reduction to the total at Ardingly, as suggested in MM1.

the communities within this area over the plan period. Furthermore, it would necessitate finding an additional 940 dwellings in the remainder of the Plan area, which would bring its own issues in relation to sustainable development. I therefore do not consider that this suggestion would be in the interests of the soundness of the Plan.

234. It is also worth stating, as the Council's Note does, that the approach using SANG and SAMMs mitigation is well established. For example, it has been used as an approach to mitigation at the Thames Basin Heaths and Dorset Heaths for around 15 years.
235. The other key area of concern raised at the hearings was the alleged lack of monitoring, which is addressed in the above mentioned Council's Note. The Note states that "*monitoring is long-term and should be undertaken regularly rather than constantly*". The Note also acknowledges that it is important to undertake surveys at SANG sites as well as in the Ashdown Forest itself.
236. **MM22** is an addition to the sixth bullet point of the Biodiversity and Green Infrastructure section of policy SA20 to refer to the requirement of the management of the proposed strategic SANG to include regular monitoring of number of visitor numbers, locations where visitors originate from, their activities at the strategic SANG, and any suggestions for future management of the SANG. This is required to make the policy effective.
237. I therefore consider, subject to the above modification, that the provision of strategic SANG in the Plan is justified and effective in reducing the likelihood of harmful visitor pressure on Ashdown Forest.

#### **Issue 4 - Conclusion**

238. From the evidence before me, I conclude in relation to Issue 4, that the Plan's provisions for the protection and enhancement of the environment, including landscape, biodiversity and heritage aspects, subject to the above modifications, are justified, effective and are consistent with national policy.

#### **Issue 5 – Are the policies to manage and promote the local economy and employment areas and allocations sound?**

##### **Is policy SA9, for a science and technology park (STP), in conformity with the District Plan and is the allocation sound?**

239. The economic case for a science and technology park (STP) within Mid Sussex was made in the evidence submitted to the examination of the

District Plan and is set out in broad terms in District Plan policy DP1 (Sustainable Economic Development), which states that the Coast to Capital Local Enterprise Partnership (LEP) has identified Burgess Hill as a spatial priority in its Strategic Economic Plan (SEP) (2014) and identifies a broad location for a STP to the west of Burgess Hill. It has been suggested that the economic case may have changed since the District Plan was adopted. However, I am mindful that this is a part 2 or 'daughter' Plan and therefore it is not for me to re-examine the principle of, or need for, the STP.

Is the scale and location of Policy SA9 justified and in conformity with the District Plan?

240. The supporting text to policy DP1 of the District Plan notes that the STP is envisaged to deliver 100,000 square metres of employment floorspace and 2,500 new jobs. This Plan, through allocation SA9, sets out the specific location of the STP. Policy SA9 allocated 48.75ha of land in order to deliver up to 2,500 new jobs in accordance with the District Plan.
241. The Council explained at the examination hearings that the proposed STP is a different concept to the earlier employment proposal in the District Plan, and that the increased size of the policy SA9 STP allocation gives the site adequate 'critical mass' to accommodate a cluster of businesses. This appears to be a reasonable conclusion, and one that is supported by the LEP.
242. I am of the view that it is relevant to consider whether the downturn of the local economy due to Covid-19 is an argument for scaling down policy SA9 or postponing it to another time. The plan period, to 2031, however, allows ample time for economic recovery, and the local economy is relatively resilient. A recent marketing report<sup>58</sup> finds that the market for new employment floorspace in Mid Sussex is predicted to remain resilient, whilst the market for industrial and warehouse property for Gatwick and Crawley remains strong.
243. Another consultant's report<sup>59</sup> does not consider that the short-term impact of Covid on the local economy will be significant and states that the pandemic does not justify any change to policy SA9. From the evidence contained in these reports, I consider that the recent pandemic is not an argument to reduce the scale of the STP proposed in policy SA9.
244. Turning to the proposed location of policy SA9, the STP is proposed in policy DP1. The adopted District Plan Policies Map shows the STP broad location further west of DP9/The Hub, ie The Hub is to be built

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<sup>58</sup> Rep 564-001 Terence O'Rourke Matter 5 Hearing Statement; May 2021.

<sup>59</sup> Rep 688-011 Vail Williams Matter 5 Statement.

out, although it does show an employment land allocation of 25 ha to the south of the A2300, which the policy refers to as a high quality business park. This employment land area 'disappears' as an allocation between the District Plan (some of which has been developed as an employment scheme called The Hub) and this Plan, whilst the STP proposed in policy SA9 in the submitted Plan before me is allocated to the north of the A2300.

245. Policy SA9 allocates land to the north of the A2300 for a STP. This is in preference to a location to the south for several important reasons, based primarily on the SA work. These include 4 key considerations:
- (i) The prospect of linking energy to waste, given the location of the WSCC waste facility immediately to the east of the allocation;
  - (ii) The proximity to the strategic housing allocation and associated community facilities, known as the Northern Arc;
  - (iii) There is a lower flood risk than in the area to the south of the A2300; and
  - (iv) There are important ecological considerations, given the Ancient Woodland to the south of the A2300.
246. I therefore find no robust reasons to come to a different conclusion to the submitted Plan regarding the location of the SA9 allocation to the north of the A2300.
247. The proposed STP is sustainably located close to Burgess Hill, which is identified in the District Plan as a town with a wide range of facilities and services, as well as being the focal point for new development to serve Mid Sussex during the plan period.
248. Furthermore, the allocation for the STP is situated adjacent to the District Plan Strategic Allocation to the north and north-west of Burgess Hill, an area known as the Northern Arc. The District Plan provides for approximately 3,500 dwellings in the Northern Arc, most of which are expected to be implemented within the plan period (as discussed in more detail under Issue 2 above). The proximity of new homes to new job opportunities should significantly reduce commuting distances for many people and encourage mode shift towards walking, cycling and bus use between the STP, the Northern Arc and the town centre.
249. The proposed STP, to the west of Burgess Hill, also enjoys good access to the A23 dual carriageway, a few miles further to the west, which connects with Brighton to the south and morphs into the M23 motorway at the northern end of the District, enabling good access to Gatwick Airport and beyond, to the national highway network and of

course London. It is hence well located to achieving the Council's objective of enhancing the prosperity of an area stretching from the coast to London, known as the Gatwick Diamond, as well as with the Greater Brighton City Region.

250. I therefore consider, based on the evidence covered in the above paragraphs, that the scale and location of Policy SA9 is justified and in conformity with the District Plan.

Is policy SA9 sound in respect of environmental impacts?

251. The impact of such a large concentration of employment land in one area will be significant, visually as well as on the tranquillity and biodiversity of the local area and would significantly push out the urban boundary of Burgess Hill westwards into open countryside; this would be a greater impact than would have been the case in relation to District Plan policy DP9, both in its size and its location, being situated further out from the edge of the town. It was argued that the STP would dramatically change what is now an agricultural area of sporadic farm buildings, although there are also a few scattered warehouses in this area. It would be incorrect to characterise this area as a pristine rural area.

252. Although it has a pleasant countryside setting, allocation SA9 is not located in any protected landscapes. Furthermore, it is located at some distance from all three of the most sensitive environmental parts of the District, i.e. it is situated away from areas directly impacting on the setting of the SDNP, and even further distanced from the High Weald AONB and the Ashdown Forest 7km Zone of Influence. This is an important consideration in a District which has such attractive environmental assets, and where land with development potential is at a premium.

253. Policy SA9 requires a LVIA to be undertaken, to inform the site layout, capacity and mitigation requirements, in order to minimise impact on views from the wider countryside, as well as to maximise the quality of the working environment. The policy also requires the retention of the existing woodland to the east and the retention and enhancement of the existing mature trees and landscape structure within and bordering the site.

254. In fact, a LVIA has already been undertaken<sup>60</sup>, which states, on the basis of a layout anticipated at 4 storeys or under, that the development can be adequately mitigated. The LVIA concludes that the theoretical visibility of three storey development would be largely limited to within 2 km of the site, and the addition of 4 and 5 storey

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<sup>60</sup> Pegasus Environmental: Landscape Technical Note; November 2019 [Examination Document SA9.6].

elements across the whole STP would only slightly extend the theoretical visibility. Moreover, the impact of the STP would not be readily perceptible from locations within the High Weald AONB or the SDNP. The impact would be further mitigated by the judicious planting of additional native forest-scale tree cover of appropriate species at locations within the site, which would of course mature over time.

255. An Ecological Appraisal<sup>61</sup> has also been commissioned by the site promoters, which states that there is unlikely to be any significant effect on important protected habitats. It also states that further detailed ecological assessment will be required as part of any detailed planning application.
256. I am satisfied, from the evidence before me, that policy SA9 can be implemented without any unacceptable environmental impacts.

Is policy SA9 justified in terms of sustainable transport and highways impact?

257. Policy SA9 aims to encourage sustainable movement through requiring measures such as the provision of new pedestrian, cycling and new bus routes and/or diversion of existing routes to connect with key hubs, including Burgess Hill town centre and the railway and bus stations.
258. Concern was expressed over its relatively poor relationship to the nearest railway station at Burgess Hill. Although the STP is to be located on the opposite side of the town from the railway station, this matter is addressed in the Project Newton Mobility Strategy<sup>62</sup>, which includes specific, costed plans (based on a bus viability strategy) to divert existing bus routes and provide a new station shuttle, enabling for example, a 10 minute link between the STP and the railway station and a further 10 minute rail journey to Brighton.
259. It is evident that considerable preparation has gone into the implementability of policy SA9. The policy sets out the requirement for a master plan and a phasing strategy, which is linked to transport and environmental mitigation.
260. A signed SCG<sup>63</sup> commits the main parties involved in transport provision for what is termed 'Project Newton', to prioritise reduction in

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<sup>61</sup> Ecology Solutions: Ecological Appraisal [Examination Document SA9.13].

<sup>62</sup> Connect Consultants - Project Newton Science and Technology Park, Burgess Hill: Mobility Strategy; November 2020 [Examination Document SA9.11].

<sup>63</sup> Project Newton Science and Technology Park SCG between Connect Consultants, Vail Williams, MSDC, WSCC and Highways England; 21 May 2021 [Examination Document SA9.17].

traffic associated with the STP through a mobility strategy. A key part of this is to achieve substantial modal shift, including 50% from car to bus between the STP and Burgess Hill town centre, and a 29% reduction in all peak hour trips by car. The SCG also commits the parties to achieve effective highway mitigation, involving capacity improvement, at five specific locations (A23-A2300 Hickstead Junction east and west; A23-A2300 Hickstead Junction southbound merge; A2300-Cuckfield Road roundabout; A2300-Northern Arc Link Road roundabout; and A272-B2036 mini-roundabout, Ansty).

261. Consequently, I am content that policy SA9 is justified in relation to sustainable transport and highways impact.

#### Policy SA9 - Conclusion

262. I am satisfied, for all of the above reasons, that policy SA9 is in conformity with the District Plan and the allocation is sound.

#### **Are policies SA2-SA8, for additional employment allocations, justified and deliverable, and are they sufficient to meet the needs of the District during the plan period?**

263. Sites SA2-SA8 comprise seven employment allocations, which were selected through a robust site selection process and assessment through the SA. There has also been ongoing engagement between the Council and the relevant site promoters. I am satisfied from the evidence and site visits that all the employment sites are well located in relation to the main urban areas in the District and the strategic highway network.

264. **MM5 and MM6** amend the second bullet points of policies SA7, for the site at Cedars, Brighton Road, Pease Pottage, and SA8, for the site at Pease Pottage Nurseries, Brighton Road, Pease Pottage. This is to underline the importance of the need to conserve and enhance the landscape and scenic beauty of the AONB, within which both SA7 and SA8 are located. This accords with national policy, for example as expressed in paragraph 177 of *the Framework*, which states that great weight should be given to conserving and enhancing landscape and scenic beauty in designations such as AONBs, which have the highest status of protection in relation to these issues.

#### **Is policy SA34, which sets a framework for the protection, intensification and redevelopment of existing employment sites, justified, effective and consistent with national policy?**

265. A policy framework to provide for consistent decision making in relation to proposals for changes to existing employment sites is set out in policy SA34. In particular, it is necessary to prevent the inappropriate loss of employment land to other uses. It is



acknowledged that the market alone is unable to secure the retention of employment land in the face of competition from higher value uses such as residential. It is therefore important to provide a safeguard which both protects existing employment land and allocations whilst allowing for flexibility, which reflects national policy, as expressed in paragraph 81 of *the Framework*, which states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

266. **MM12** ensures that policy SA34 is effective as well as being justified. It does this by requiring details of comprehensive marketing of a site for employment use, which is subject to development proposals outside the traditional employment use classes for a period of at least 12 months. It also requires a financial appraisal that demonstrates that the development of any employment generating use is unviable. I consider that 12 months is a reasonable period for the effectiveness of the Plan in playing its part to secure sustainable economic growth for Mid Sussex which would be consistent with national policy.
267. **MM12** also allows for development proposals outside the traditional employment land use classes where it can be demonstrated that the continued use of the site for employment uses would lead to environmental problems, such as noise pollution or disturbance, recognising that there would be environmental benefits gained by redeveloping these sites for non-employment generating uses.

**Is the Plan likely to maintain, enhance or detract from a sustainable housing/employment balance in the District, or is it more appropriate to consider Mid Sussex in relation to its near neighbours, such as Brighton and Crawley? Is there a balance between housing provision and maintaining an adequate supply of employment land?**

268. I note the Council's explanation that the employment policies reflect the annual average number of jobs needed for the District, which is estimated at 543. This figure is closely linked to the increase in population and provides the appropriate homes/jobs balance. This equates to a 10-15 ha employment land requirement, and the Plan allocates seven employment sites (policies SA2-SA8), totalling 17.45 ha, which amounts to a small over-supply for flexibility and resilience.
269. In addition, the proposed STP has been allocated to deliver the Council's objectives for high value economic growth, on a site adjacent to the Northern Arc strategic allocation (3,500 dwellings), as well as providing job opportunities within the wider region, including nearby neighbours Brighton and Crawley. A further sustainable aim of the STP is to reduce out-commuting.

270. It is clear to me that a key aim in the Plan, to achieve a sustainable housing/employment balance, is likely to be achieved, both at the District level, but also, through the STP, within a wider, regional context, with the added advantage of making an inroad into the strong pattern of out-commuting, both to London but also to Brighton and other neighbouring towns.
271. Concerns were expressed over the lack of employment allocation in the Plan in the area between East Grinstead, Felbridge and Crawley Down, despite a significant amount of additional housing directed into this area by the Plan, especially the sites at SA19 (Land South of Crawley Down Road, Felbridge) and SA20 (Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead). However, this area is within easy commuting distance of employment opportunities in neighbouring Crawley, including Gatwick Airport, as well as being located relatively close to the proposed STP, and I therefore do not accept that the lack of employment allocations in and around East Grinstead is unsustainable.

### **Conclusion – Issue 5**

272. From the evidence before me, I conclude that in relation to Issue 5, subject to the above modifications, the Plan's policies to manage and promote the local economy and employment areas and allocations are sound.

## **Issue 6 – Are the infrastructure and transport provisions of the Plan sound?**

### **Are there any necessary infrastructure needs that are not addressed in the Plan?**

273. The Plan is accompanied by an Infrastructure Delivery Plan (IDP)<sup>64</sup>. The IDP has been prepared based on ongoing work with infrastructure providers to identify any necessary infrastructure requirements. SCGs have been signed with Scotia Gas Network, South East Water, Southern Water, Thames Water, UK Power Networks and West Sussex Clinical Commissioning Group. None of these bodies has indicated any concerns that the Plan has not addressed any necessary infrastructure needs, and some have written in support of the Plan. Overall, I am satisfied from the evidence before me that the Plan has addressed the necessary infrastructure needs in a satisfactory way.
274. Some concerns are expressed over the adequacy of the highways network to accommodate the growth provided for in the Plan,

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<sup>64</sup> Site Allocations DPD: Infrastructure Delivery Plan (IDP); December 2020.

especially around East Grinstead and Burgess Hill. However, this is not the view of National Highways or the WSCC, the local highways authority, and I deal with highways issues in more detail below.

**Are there any water supply, flood risk, or sewerage issues that could be described as significant constraints, and if so, can they realistically be overcome within the plan period?**

275. Most of the area is identified as having a deficit in water supply, in common with much of the South East of England and East Anglia. The Council has indicated that it intends to work on policies to increase water efficiency, in line with comments from Thames Water and the Environment Agency (EA), at the District Plan review stage. There is no objection to this course of action from the relevant statutory undertakers, and I see no reason to take a different view. Clearly, this is an issue which all local planning authorities within the region will need to grapple with in the not-too-distant future in the light of climate change and increased demands from population and economic growth on the finite level of water supply.
276. The SA identifies approximately 2.7% of the total land area of the District is at a high risk of flooding, and approximately a further 0.48% which is affected by drainage problems, groundwater flooding and overland flows. Most of the allocations for development in the Plan are recorded by the SA as having zero or neutral impact in relation to flooding, with the exceptions of policy SA9 (Science and Technology Park), policy SA19 (Land South of Crawley Down Road, Felbridge) and policy SA24 (Land to the North of Shepherds Walk, Hassocks). However, all three of these policies are supported by the EA, in its Regulation 19 representation, with regard to the policy wording setting out the required flood risk and drainage mitigation. The EA also singles out policy SA2 (Burnside Centre, Victoria Road, Burgess Hill) and policy SA20 (Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead) as being acceptable in terms of flood risk and drainage mitigation.
277. I also note that although the Goddards Green Wastewater Treatment Works is identified as having constraints in relation to capacity and odour, the appropriate mitigation work is nearing completion and will be able to satisfactorily accommodate the Northern Arc proposed developments. In view of the above considerations, I am satisfied that any water supply, flood risk or sewerage issues can realistically be overcome within the plan period.

**Are there any issues arising from the development allocations on the strategic highways network or on any locations with potential highways/pedestrian safety issues, and if so, can they be satisfactorily overcome?**

278. The impact of the proposed development allocations on the strategic highways network, especially in the Burgess Hill area and along the A22/A264 corridor to the west of East Grinstead, was debated in detail and with passion at several hearing sessions. There is clearly a feeling among many residents and some of their representatives that, in traffic terms, "enough is enough" and that the District is reaching a tipping point in some traffic 'hot spots', where quality of life is, or is about to be, they consider, affected for the worse.
279. Two principal traffic related concerns are set out in the representations. The first relates to whether the traffic modelling, which the Plan uses in assessing traffic impact on the highways network, is fit for purpose. A second major concern is whether the impact of the proposed development allocations in the Plan would be acceptable in terms of national policy – i.e. whether any such development would cause an unacceptable impact on highway safety, or whether the residual cumulative impacts on the road network would be assessed as 'severe'; bearing in mind that paragraph 111 of *the Framework* states that development causing 'severe' impact should be prevented or refused on highways grounds. Even though this paragraph appears in my judgment to be primarily aimed at development management, i.e. responding to planning applications rather than specifically at local plan examinations, I still regard it as a relevant consideration in assessing the soundness of local plan policies.
280. It was explained by the Council and several other parties that the traffic modelling study commissioned by the Council – known as the Systra model – was used to build up the Mid Sussex Transportation Study (MSTS), which formed the basis for assessing the impact of the development proposals in the Plan (and also upon significant routes in the Ashdown Forest). Evidence submitted to the examination<sup>65</sup> showed that the model was produced in accordance with standard good practice as set out in the Department for Transport (DfT) WebTag guidelines. It has also been validated by National Highways and WSCC as being robust and fit for purpose.
281. Several parties also stated that the District-wide Saturn modelling undertaken by Systra, which considers the impact of development allocations on the District as a whole, is an entirely standard and appropriate way of evaluating transport impacts at the local plan stage, a view I support. As these parties point out, the need for

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<sup>65</sup> Including the Local Model Validation Report (LMVR) [Examination Document T1].

additional local detail can be addressed at the planning application stage through the Transport Assessment (TA) process, which I also consider to be the appropriate stage in the planning process to assess specific schemes in greater detail.

282. Whilst the term 'severe' is a subjective term, the Systra based MSTs sets out a definition which helps to clarify the difference between 'severe' and 'significant' transport impacts<sup>66</sup>, which is an important distinction in relation to national policy (as explained above). In order to determine the cumulative impacts on the highways network, the Study defines a starting point of 2017, with the end date coinciding with the end of the plan period (2031). It was also carried out in parallel with work on environmental impact and air quality. Several development scenarios were tested, encompassing the 22 housing and the 8 employment sites allocated in the Plan, including the STP<sup>67</sup>.
283. A major area of disagreement between the Council, supported by the local highway authority (WSCC) on one side and several residents and some of their elected representatives and action groups, including Infrastructure First on the other side, is whether the MSTs (and the Plan) has taken into account cumulative traffic impact, as opposed to just the impact of the individual schemes included in the Plan. In addition to the Council's written response to the MIQs, an additional paper was written on cumulative impact<sup>68</sup>. This paper, which has been directly informed by WSCC as the local highway authority, models the Reference Case (the situation at the end of the plan period), from which additional impacts associated with the allocations in the Plan can be identified and supporting infrastructure assessed.
284. The Study identifies 9 highway junctions in the District which it explains would experience 'severe' impacts without mitigation, 5 of which are located in and around Burgess Hill, with two more to the south of Burgess Hill (Hassocks and Pyecombe), and one just to the north of the town, at Ansty, leaving just one additional 'severe' junction at Crawley Down. The Study also identifies a further 8 significantly impacted junctions, again mainly focused on Burgess Hill.
285. No other parties set out a definition of 'severe' transport impact in such comprehensive detail as in the MSTs. The examination presented the opportunity for further scrutiny of this definition, and whilst concern was expressed over congestion levels and what is meant by cumulative congestion, the formula itself in the MSTs was not challenged per se. Having listened carefully to the debate at the

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<sup>66</sup> Mid Sussex Transportation Study: Modelling Report; 3 March 2020, page 31, para 3.4.3 [Examination Document T7].

<sup>67</sup> Set out in greater detail in the Mid Sussex Transportation Study: Modelling Report; 3 March 2020 [Examination Document T7].

<sup>68</sup> MSDC21: Response to Infrastructure First – Interpretation of Cumulative Impacts in respect of MM2; 10 February 2022.

hearings and read the evidence, I have no reasons to come to a different definition.

286. The Study sets out a wide ranging series of proposed sustainable mitigation schemes, all of which aim to reduce car trips within a range of 1-3%, following the implementation of the housing and employment allocations, including the STP. The Study also proposes highway mitigations to directly address the 'severe' impacts that cannot be fully removed by sustainable measures alone. The scenario of sites experiencing 'severe' impacts after mitigation is reduced from 9 to one following implementation of the Plan.
287. The one remaining site which is deemed 'severe' following the implementation of the allocations in the Plan is the B2028 Tanners Way/Wallage Lane junction, Crawley Down, where the 'severe' impact is considered to be relatively marginal due to the PM peak volume over capacity increasing from 83% to 98%. The Study explains that it is not considered appropriate to undertake junction improvements which could result in facilitating additional through traffic on Wallage Lane, rather than using more appropriate east-west routes including the A264. This appears to be the most sustainable approach, and I do not consider that the application of the Study in relation to the Tanners Way/Wallage Lane junction undermines the soundness of the Plan.
288. I am satisfied, from studying the written evidence and from the discussion at the examination hearings, that the MSTs and the Systra modelling it is based on, is fit for purpose and is based at the appropriate level for assessing the traffic impact of the site allocations in the Plan.
289. Most of the traffic related concerns expressed in representations relate to two areas – in and around Burgess Hill; and along the A22/A264 corridor to the west of East Grinstead.
290. In the Burgess Hill area, the principal concerns relate to the impact of allocation SA9 for the STP to the west of the town, and allocations SA12 (Land South of 96 Folders Lane, Burgess Hill) for 40 dwellings and SA13 (Land East of Keymer Road and South of Folders Lane, Burgess Hill) for 300 dwellings, both situated close to each other on the south-eastern fringe of the town.
291. The MSTs identifies three of the 9 severely impacted junctions in the District to the west of Burgess Hill; these are:
- (i) the A23/A2300 junction, southbound on-slip;
  - (ii) the A23/A2300 junction, eastern roundabout; and

(iii) the A2300/ Northern Arc Spine Road junction.

292. The principal cause of the severe traffic impact on these three junctions is, unsurprisingly, the STP. The Council and the promoters of the STP, as set out in a signed SCG<sup>69</sup>, have agreed a phased package of physical measures designed to mitigate the residual traffic impact by improving the capacity at the above-mentioned key junctions. The MSTS demonstrates that the result of these measures is to reduce the level of impact from 'severe' to 'significant' at junctions (i) and (iii) and to 'OK' at junction (ii).
293. These design solutions are not the subject of any objections and I see no reason not to accept the contention by the promoters and the Council that they can satisfactorily mitigate any impact on the Strategic Highway Network. The above-mentioned SCG also includes capacity improvement schemes at the A272/mini-roundabout, Ansty (deemed to be severely impacted in the MSTS prior to mitigation) and at the A2300 Cuckfield Road roundabout.
294. The Council, together with the local highways authority and the scheme promoters, have also worked on an ambitious plan to achieve significant modal shift towards increased sustainable transport, and I deal with this in more detail in Issue 5 above.
295. Concerns were expressed over the traffic impact that allocations SA12 and SA13 would have on the highway network in south-eastern Burgess Hill. Burgess Hill Town Council, whilst accepting the validity of the Systra model, nevertheless considered the interpretation of the outputs from the MSTS to be flawed, both in relation to pedestrian safety, as well as vehicular congestion and levels of severity. I note that firstly, a stage 1 Road Safety Audit regarding the proposed access to site SA13, for 300 dwellings, did not highlight any material concerns. Furthermore, the proposed pedestrian, cycle and emergency access points offer good connectivity to off-site infrastructure, and the development proposals would enable off-site enhancements to the pedestrian environment and bus stop provision between the site and the town centre.
296. The MSTS shows that the Junction Road/B2113 junction, just to the north of sites SA12 and SA13, would be severely impacted by the proposed development without mitigation. However, with the proposed improvements, this junction moves down to 'significant', although two other junctions in Burgess Hill, including the Folders Lane/Keymer Road junction, which is located in very close proximity

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<sup>69</sup> Statement of Common Ground (SCG) between Connect Consultants, Vail Williams, Mid Sussex District Council, West Sussex County Council and Highways England in relation to Project Newton Science and Technology Park; 21 May 2021 Update [Examination Document SA9.17].

to allocation SA13, have changed from 'no impact' in the without mitigation scenario to 'significant'. The reason for this, as explained in the MSTs, is that the mitigation strategy draws traffic back to the A23/A2300 and the main arterial routes through Burgess Hill, away from residential streets, which is the desired overall outcome, benefitting the town as a whole.

297. I also note that WSCC, in agreeing with the MSTs findings, states that whilst the queue length and waiting times for traffic will increase in the vicinity of sites SA12 and SA13, the level of such increases is not considered to be 'severe' and is appropriate in highway terms. Whilst I agree that the traffic impact would appear to be greater than the level of congestion experienced in the south-east of the town now, I agree with the findings of the MSTs that none of the junctions closest to sites SA12 and SA13 – and indeed none of the junctions throughout Burgess Hill – would reach the level of 'severe' as defined in the Study.
298. These findings of the MSTs have to be considered in the light of two additional factors; firstly, the improvements are likely to impact positively on modal shift, resulting in increasing numbers using buses, cycling and walking as a direct result of the measures proposed, and paid for, in part by Section 106 agreements with the committed developers, as set out in the above-mentioned SCG.
299. Secondly, a point was made in representations and verbally at the hearings, that, whilst traffic impact is a key consideration, it has to be balanced against or alongside other aspects of sustainability, which I have already considered earlier in my report in relation to policies SA12 and SA13. Related to this, it was also stated that there will typically be a greater traffic impact in a more sustainable location, such as Burgess Hill, given that there will generally be greater traffic movements as a result of proximity to a larger number of facilities and services in more sustainable locations than elsewhere<sup>70</sup>.
300. Taking account of all the considerations set out in the above paragraphs, I firstly agree with the Burgess Hill Town Council and others that traffic levels are already an issue for the town. Secondly, I consider that Burgess Hill and its environs will experience an overall improvement in traffic impact (i.e. slightly lower levels of traffic in total and the elimination of the four existing 'severe' impacts on junctions in and around the town), following the implementation of the Plan.
301. However, these improvements will only be achieved if the sustainable transport measures and highway improvements which are set out in the MSTs, are delivered as proposed, both in relation to the STP

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<sup>70</sup> Evidence given on day 3 of the hearings, 3 June 2021.



(policy SA9) and the proposed housing allocations in the south-east periphery of the town (policies SA12 and SA13). These measures and improvements are covered within policies SA9, SA12 and SA13, and therefore constitute an important consideration in favour of the soundness of these policies.

302. Turning to the A22/A264 corridor to the west of East Grinstead, although the MSTs acknowledges that the signalised Felbridge A22/A264 junction is a 'hotspot' where delays are regularly experienced, the junction is not identified as having 'severe' impacts, either currently or within the scenario of implementing the housing allocations of SA19 (Land South of Crawley Down Road, Felbridge) for 200 dwellings, and SA20 (Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead) for 550 dwellings. However, the Study states that a 'severe' impact is only avoided by rerouting onto less suitable routes, and to avoid this and significantly reduce congestion at the junction, significant mitigation of the A22/A264 junction would be required.
303. The MSTs is broadly supported by the TAs for policy SA19<sup>71</sup>, which forecast that the Felbridge junction would operate at capacity, with minimal impacts arising from the proposed development, which is consistent with the MSTs Systra assessment.
304. The Transport Appraisal for SA20<sup>72</sup> summarises the findings of the transport studies undertaken to support the allocation of 550 dwellings at Imberhorne Farm. It notes that a TA will be produced at the planning application stage but also notes that the existing transportation work shows that the Felbridge junction is forecast to operate at overcapacity in the MSTs 2031 scenario and that as a result of the queuing at the junction, there is some level of traffic re-routing to avoid using this junction, and that the alternative routes within the network (B2010 and B2028) are viable, and as such the impact of the development proposed in the Plan is not considered to be 'severe'.
305. Overall, I consider that the MSTs is supported by other traffic studies, including those mentioned above and a microsimulation assessment by the SA20 consultants. These studies show that the strategic improvement schemes proposed, and which are covered in policy SA35 (Safeguarding of Land for and Delivery of Strategic Highway Improvements), together with sustainable transport interventions which are outlined in policies SA19 and SA20, would not only mitigate

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<sup>71</sup> Transport Assessment: Site 196, Land South of Crawley Down Road, Felbridge, for Barratt David Wilson Homes; Motion Consultants; July 2020 [Examination Document SA19.6].

<sup>72</sup> Imberhorne Farm, East Grinstead Transport Appraisal, by Pell Frischmann for Welbeck Strategic Land; 17 July 2020 [Examination Document SA20.4].

the impact of these allocations, but would provide a strategic betterment in terms of journey times and overall operation of the highway network, including Felbridge junction.

306. Reference was made to another study, known as the draft WSP Study, which included investigation and design work to ascertain potential options to address capacity issues at the A22/A264 Felbridge Junction and the A22 corridor through East Grinstead. The SCG<sup>73</sup> signed by MSDC and Tandridge DC, stated that there was agreement that the study is emerging evidence and not yet completed and therefore is not publicly available.
307. I also note that all the parties who have commissioned the study (MSDC, Tandridge DC, WSCC and Surrey CC) have agreed that further work is necessary to understand traffic flow through all the junctions on the A22 corridor, including Felbridge Junction, and that no conclusions can be drawn from the draft WSP report at this stage. The report is still draft, it was commissioned for another plan (Tandridge Local Plan) and it will be superseded. I can therefore understand why it has not been used as part of the evidence base for this Plan, and it forms no part of the evidence base of my report.
308. In concluding on the impact of the Plan on the highways network, I acknowledge that in several areas within the District, many of the roads are busy and experience congestion, even significant congestion, at several key junctions. However, the MSTS, which has been assessed as fit for purpose by both National Highways and WSCC, has demonstrated that with one exception, none of the impacts arising from the Plan are likely to be 'severe', and therefore contrary to national policy, and that policies are in place to require appropriate enhancements to sustainable transport provision.
309. Highways matters were debated fully in several sessions during the hearing sittings. On the basis of all that I have read and heard, I consider that there is a reasonable likelihood that all the allocations can be delivered in line with the expectations in the Plan. If, however, any of the allocations stall and are considered to be uneconomic for highway reasons, it will be incumbent on the Council to review its housing land supply and assess the deliverability of alternative sites. I also consider it will be at the planning application stage for more detailed TAs to be submitted to address specific problems of congestion and/or safety.

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<sup>73</sup> SCG regarding the Mid Sussex DC Site Allocations DPD, signed by MSDC and Tandridge DC; 8 July 2020 [Examination Document DC13].

**Is policy SA35, which addresses the safeguarding of land for and delivery of strategic highway improvements, justified, detailed and effective to enable the delivery of the following schemes: (i) A22 Corridor upgrades at Felbridge, Imberhorne Lane and Lingfield Junctions; (ii) A264 Corridor upgrades at Copthorne Hotel Junction; and (iii) A23 junction upgrades at Hickstead?**

310. The policy safeguards land for the delivery of the three above-mentioned key highways schemes in the District. In relation to schemes (i) and (ii), these junctions have been identified as having pre-existing capacity/safety issues; policy SA35 intends to safeguard the relevant land to enable delivery in due course, with a commitment to more detailed design and feasibility work to be carried out in consultation with WSCC and other relevant parties and will be subject to further consultation. In relation to scheme (iii), the A23 junction upgrades at Hickstead, safeguarding is required to support the mitigation associated with policy SA9 for the STP.
311. Policy SA35 also acknowledges that the planning and funding of highway and transport infrastructure can take time to prepare. The policy also ensures that the implementation of the Plan is not compromised by inappropriate development occurring in the interim which could prevent future highway schemes being delivered at some point during the plan period. Work to refine highway infrastructure proposals will only be considered once all the relevant sustainable travel interventions have been fully explored and taken into account. I note that in relation to policy SA9, three options for the proposed mitigation of the A23 are currently being explored, and that the overall mitigation package can be provided wholly within the highway boundary, with no obvious barriers to delivery.
312. In relation to policies SA12 and SA13, the Folders Lane area in Burgess Hill is identified as suffering from congestion. The strategic TA undertaken by the site promoters, which has been validated by WSCC, does not identify any 'severe' traffic impacts associated with the proposed allocations. I agree with the Council that, based on the evidence submitted to the examination, and which is summarised earlier in my report, there is no evidence to suggest any 'severe' impacts arise from policies SA12 and SA13 and no highway capacity mitigation has been identified as required and therefore no land required for safeguarding.
313. **MM13** ensures that the policy which safeguards strategic highway improvement land also meets the requirements for biodiversity net gain, in accordance with national policy, as expressed in paragraph 174 (d) of *the Framework*.
314. On the basis of the above considerations, I am satisfied that policy SA35 is justified, detailed and effective to enable the three above-

mentioned schemes (i) to (iii) to be delivered within the plan period, and that there is no need to amend the policy to include additional reference to any specific works associated with either policy SA12 or SA13.

**Is policy SA37 for the Burgess Hill/Haywards Heath Multifunctional Network justified and effective, both in principle and in relation to the preference of routes proposed for pedestrian and cycle routes? Although the policy is indicative, in view of the concerns expressed in some representations and the need for a measure of certainty, should the policy be linked to a realistic time frame for selection of preferred route(s) and final implementation of a preferred route(s)? What are the biodiversity aspects of pursuing the various options?**

315. It is clear from the evidence that the policy would potentially deliver multiple benefits, including enhancing road safety, providing sustainable commuting alternatives between the two largest settlements within the District, reducing the use of the private car, tackling traffic congestion and supporting healthy lifestyles. However, no route is yet confirmed or fully designed. It is accepted that the scheme is at an early point in its gestation, and I consider that policy SA37 is necessary to safeguard the options from development that may prejudice the implementation of a finally agreed scheme. There is clear support for the project from both Burgess Hill and Haywards Heath Town Councils, although I note concerns about the choices of routes from some third parties.
316. In terms of scheme progress and choices of routes, I note that each potential route has undergone a feasibility study, with the proposed Western Route preferred, which would link Wivelsfield Station, Leylands Road, Maple Drive and the Northern Arc strategic housing development to Isaac's Lane via Freeks Lane, partly along an existing, upgraded public footpath.
317. A secondary, Eastern Route, linking Wivelsfield Station, the Northern Arc development and Fox Hill, was withdrawn following public consultation. From discussion at the hearing sessions, although there is clearly not agreement on choices of routes and I note that a Central Route appears to have not been progressed, I am satisfied that the Council has sought to engage with the public openly over what appear to be difficult route choices and have listened to comments from Sussex Wildlife Trust, which have led to the modification to the policy, which I address below.
318. **MM14** modifies policy SA37, to ensure that the detailed design work of the Multifunctional Network has a clear consideration of matters such as biodiversity and landscape in order to avoid harmful impacts on those features. This ensures the policy is in accordance with

national policy on habitats and biodiversity, as expressed in paragraph 174 (d) of *the Framework*.

### **Does the Plan adequately address the need to protect playing fields and/or other community facilities?**

319. District Plan policy DP24 protects against the loss of playing fields in Mid Sussex, whilst policy DP25 protects against the loss of community facilities. Policy SA16, for the redevelopment of St Wilfrid's Primary School for a mixed use scheme including housing and community facilities, involves the loss of the existing playing fields, but the policy refers to the establishment of a strong sense of place, focused around a high quality area of open space. The policy also requires either reprovision of the school playing fields or the justification of their loss to the Council and Sport England.
320. Policy SA20 (Land South and West of Imberhorne Upper School, Imberhorne Lane, East Grinstead) requires a land swap agreement between WSCC and the developer/promoter, to secure 6 ha (gross) land for new playing fields in association with Imberhorne Secondary School, which it is considered will yield positive improvements and protect against any loss.
321. Policy SA25 (Land West of Selsfield Road, Ardingly) is subject to a main modification **MM1**, which reduces the number of new homes from 70 in the submitted version to 35 dwellings, with the inclusion of strategic landscaping at its western end. Although the site is used for informal recreation, it is not a designated playing field; moreover, it is located adjacent to the village recreation ground, whilst the policy states that requirements for suitably managed open space and equipped children's play space will be addressed, for implementation either on-site or by financial contribution to upgrade existing adjacent facilities.
322. On the basis of the above examples, I consider that the Plan adequately addresses the need to protect playing fields and/or other community facilities, in accordance with national policy.

### **Issue 6 - Conclusion**

323. From the evidence before me, I conclude that in relation to Issue 6, subject to the above modification, the infrastructure and transport provisions of the Plan are sound.

## **Issue 7 – Development management, uncertainties and risks**

### **Development management: Does the Plan provide sufficient guidance to cover all the relevant aspects of development management which are required to achieve the satisfactory implementation of the Plan?**

324. Concerns were expressed that the submitted Plan did not provide elderly persons' housing guidance for development management, but this subject has been addressed in Issue 2 above. The point was made in one representation that the Plan should avoid unnecessary duplication of policies, and no evidence was put to the examination that additional development management policies are needed to supplement those in the District Plan.

### **Uncertainties and Risks: Overall, does the Plan take sufficient account of uncertainties and risks? How flexible is it?**

325. The District Plan and this Plan collectively make provision for a mix of housing sizes and types and has an oversupply of 907 dwellings (about 5.95% of the District's minimum housing requirement, i.e. significantly greater than the 2.9% buffer in the submitted Plan) and an additional 2.54 ha of employment land (in addition to the STP which is intended to meet economic need at a sub-regional level). I agree with the Council that this amount of over-supply provides an acceptable level of flexibility to ensure that the District's housing and employment land requirements are met in full with an element of choice, and this can enable the Council to address unexpected issues relating to deliverability within the plan period.

326. I note from the evidence and discussion at the hearing sessions that the Council has worked closely with site promoters and developers to ensure that barriers to timely delivery of sites have been satisfactorily addressed. I also note from the hearing sessions that there is recent evidence showing that the Mid Sussex housing market is very robust. There is therefore little likelihood that the Plan will under-deliver on its housing targets within the plan period.

### **Are the Plan's monitoring arrangements soundly based? Should biodiversity net gain be monitored?**

327. For each policy, the monitoring schedule identifies the indicators, target(s), implementation and monitoring source. It is also worthy of comment that the only representations in relation to monitoring at either Regulation 18 or 19 stage related to biodiversity net gain. NE and Sussex Wildlife Trust argue that biodiversity net gain should be monitored. I agree with the desirability of this in principle, and it is now included as a requirement in the Environment Act 2021, which

was still a Bill at the time of the hearings. **MM15** sets out the new indicators which will seek to measure biodiversity net gain or loss in relation to each allocation in the Plan and policy SA GEN. This brings the Plan in line with national policy, as expressed in paragraph 174 (d) of *the Framework*.

### **Conclusion – Issue 7**

328. From the evidence before me, I conclude that in relation to Issue 7, subject to the above modification, there are no soundness issues in relation to development management, uncertainties or risks, and the Plan is therefore sound in relation to these aspects. I am also satisfied that there are no additional soundness issues which my report needs to cover in relation to the Plan.

### **Assessment of Legal Compliance**

329. My assessment of the legal compliance of the Plan is summarised below:

- (i) The Plan has been prepared in accordance with the Council's Local Development Scheme.
- (ii) Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
- (iii) The Sustainability Appraisal (SA) has been carried out at all stages of the preparation of the Plan and is adequate.
- (iv) The Plan complies with the Habitats Regulations. The Habitats Regulations Assessment (HRA) concludes that the Plan is justified and effective in relation to the Habitats Regulations.
- (v) Although the Plan does not contain a specific policy addressing climate change, it is clearly referenced in the District Plan under several policies and climate change principles are covered across the Plan's policies. The Council has indicated its intention to include a strategic climate change policy within its forthcoming District Plan Review. I am satisfied that this is the appropriate way forward for Mid Sussex.
- (vi) The Plan is in general conformity with the Mid Sussex District Plan.
- (vii) The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## **Overall Conclusion and Recommendation**

330. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

331. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix, the Mid Sussex Site Allocations Development Plan Document satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound and capable of adoption.

*Mike Fox*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.