



Mr N Payne
Planning Inspector

By email c/o Claire Jones-Hughes
Programme Officer

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5 October 2015

Dear Mr Payne

**Submission of Proposed Modifications to the Submission Joint Core Strategy and associated consultation documents.
Lewes District Local Plan Part 1: Joint Core Strategy**

Please find enclosed/attached the Schedules of Proposed Modifications and associated documents that have been prepared by the two local planning authorities in response to your 'Initial Findings' letter [ID/05].

These Proposed Modifications to the Joint Core Strategy (JCS) were agreed for publication and consultation by Lewes District Council's Full Council on 16 July 2015 and by South Downs National Park Authority's Planning Committee on 9 July 2015. The documents were subsequently published on 7 August 2015¹ and made available for an 8 week consultation period to 2 October 2015. Representations received have been summarised and set out in an addendum to the Consultation Statement [LDC/082].

There are two particular matters that have arisen since we received your Initial Findings letter in February, to which we would like to draw your attention:

1. The Court of Appeal judgement² dated 9 July 2015 regarding the adopted Wealden Core Strategy Policy WCS12 and the Ashdown Forest 7km Zone of Influence; and
2. The High Court judgement³ dated 31 July 2015 regarding the Written Ministerial Statement of 28 November 2014⁴ and the consequent deletion of paragraphs 12 to 23 of the Planning Obligations section of the National Planning Practice Guidance (NPPG).

¹ Following the agreed 2 week postponement in order to review the evidence and policy position in relation to the Ashdown Forest.

² Ashdown Forest Economic Development LLP v Wealden District Council and South Downs National Park Authority

³ West Berkshire District Council and Reading Borough Council v Department for Communities and Local Government

⁴ 'Support for small scale developers, custom and self builders' House of Commons: Written Statement (HCWS50) made by The Minister of State for Housing and Planning (Brandon Lewis) DCLG

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1. Ashdown Forest 7 km zone – Core Policy 10

The 9th July 2015 Court of Appeal judgement resulted in the quashing of the policy wording relating to a 7km zone around the Ashdown Forest SPA/SAC in policy WCS12 of the adopted Wealden District Core Strategy Local Plan 2013. In light of this, LDC and SDNPA considered it prudent to review the position in Submission JCS Core Policy 10 [CD/001] relating to the 7km zone, including appropriate and alternative policy approaches to the mitigation of recreational pressure, arising from residential development, on the Ashdown Forest.

On order to expedite this we engaged expert SA/SEA consultants at AECOM to undertake a review and appraisal of alternatives, which has then been used by the authorities to inform, and confirm, our preferred approach in this matter. This remains as set out in Core Policy 10 of the Submission JCS.

We therefore do not propose any further main modifications to Core Policy 10, beyond those set out in the schedule of Main Modifications [LDC/065], which arose from discussions at the January 2015 hearings.

We have prepared and consulted upon an Addendum to the Sustainability Appraisal [LDC/081], within which section 6 details our consideration of reasonable alternatives to Core Policy 10 criterion 3, including the report provided by AECOM in full.

The quashing of the policy wording relating to the zone in WCS12 is specific to that policy only, not to principles of a 7km zone *per se*, or the evidence behind it. Moreover the Habitats Regulations that protect the Ashdown Forest Special Protection Area (SPA) are unchanged. The Court of Appeal judgement noted that the conclusion on WCS12 was arrived at “with a degree of reluctance”, rather than as a result of the 7km zone itself or the requirement for specific mitigation measures⁵. The removal of the wording of WCS12 was required due to a matter of process whereby it was concluded that Wealden District Council had not explicitly met its duty under the Strategic Environmental Assessment Regulations.

Natural England was engaged in the work undertaken by AECOM and the authorities. Natural England supports the continued use of the 7km zone and specific mitigation measures and has advised that it ‘stands firm’ behind evidence that justifies this approach, as discussed at our January hearings. This is confirmed in their recent representations on the Proposed Modifications consultation.

2. Affordable housing thresholds – Core Policy 1

Core Policy 1 of the Submission JCS sets a target of 40% affordable housing for developments of 10 or more dwellings and for developments of less than 10 it sets out a stepped target and threshold whereby 1-2 units = 0 affordable; 3-4 units = 1 affordable; 5-7 units = 2 affordable and 8-9 units = 3 affordable.

⁵ . Suitable Alternative Natural Greenspaces (SANGs) and on-site visitor management measures through the Strategic Access Management and Monitoring Strategy (SAMMS)

This target and threshold for affordable housing has been established according to robust local viability evidence and subject to consultation⁶ prior to Submission for examination in September 2014. Core Policy 1, as submitted, was also approved by LDC Cabinet and Council and SDNPA Full Authority.

Subsequent to Submission of the JCS to the Planning Inspectorate in September 2014, the Government issued a Written Ministerial Statement and updated the NPPG stating that small-scale developments providing 10 or fewer residential units were not required to provide affordable housing or other tariff-type S106 contributions. This changed national position was published on 28 November 2014, in the period between the submission of the JCS for examination and the commencement of the hearing sessions in January 2015. As a result, in November 2014, the affordable housing thresholds in Core Policy 1 of the Submission JCS became inconsistent with national policy.

In response, officers proposed modifications to Core Policy 1 to ensure consistency with the NPPG. This modification was introduced to the examination in our January 2015 Written Matters Statement for Issue 9i – Housing Policies [LDC/037]. This modification was subsequently formally agreed by both authorities in July 2015 for publication and consultation (under reference MM15 in the Proposed Main Modifications [LDC/065]).

On the 31 July 2015 the High Court ruled that this element of the NPPG was "incompatible" with the statutory planning framework and that the Written Ministerial Statement should not be a material consideration, including for development plan procedures. Since this ruling the Government has deleted the related paragraphs 12 to 23 of the Planning Obligations section from the NPPG.

In light of the above, the authorities now request that the proposed main modification MM15 [LDC/065] is not proceeded with⁷. LDC and SDNPA made the decision to modify the thresholds in Core Policy 1, as per MM15, solely in order that the JCS would be consistent with the NPPG. This decision was not taken because the authorities considered that higher thresholds for affordable housing delivery should be set for the district. To continue with the higher thresholds as proposed in MM15 would be inconsistent with robust local evidence for affordable housing viability. This would result in an unnecessarily reduced delivery of affordable housing over the plan period, which is much needed to contribute to meeting the significant level of need identified in Lewes district.

This change in the national policy position will be reported to LDC Cabinet on 23 November 2015 and Council on 9 December 2015, prior to the scheduled resumed hearing sessions in mid-December. The report will recommend the ratification of the position set out in this letter and specifically that MM15 should not be pursued.

⁶ The target and thresholds in the format set out in Submission CP1 were included in the Proposed Submission JCS in January 2013 and these elements of the policy remained unchanged in the Focussed Amendments JCS in May 2014 and the Submission JCS in September 2014.

⁷ Except for the deletion of the words " (shared ownership)" which we intend to continue with as an additional/minor modification.

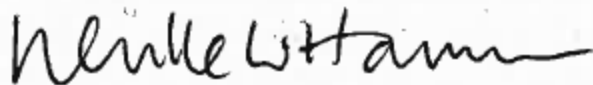
It is the case that the thresholds and target for affordable housing set out in Core Policy 1 of the Submission JCS [LDC/001] are clearly justified by robust local evidence. Details of this were provided in our Written Matters Statement for Issue 9i in January 2015 [LDC/037] and submitted evidence documents [CD/052, CD/053, CD132 and CD133]. While our Statement [LDC/037] was written in the context of the national policy position being in accordance with the 28 November Written Ministerial Statement, its content remains valid for the stepped threshold for developments of 3 to 9 residential units, inclusive, which was and remains fully justified by the viability evidence.

We respectfully request that the content of this letter is taken into account in your Final Report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Jones', written in a cursive style.

Tom Jones
Cabinet Member for Planning
Lewes District Council

A handwritten signature in black ink, appearing to read 'Neville Harrison', written in a cursive style.

Neville Harrison
Chair of Planning Committee
South Downs National Park Authority