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Ms Lynette Benton - Programme Officer
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By email - Lynette.Benton@wealden.gov.uk

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Dear Ms Benton,

WEALDEN DISTRICT CORE STRATEGY
NATIONAL PLANNING POLICY FRAMEWORK
IMPLICATIONS OF CHANGES IN NATIONAL POLICY

Thank you for the invitation to submit views on the implications of changes to the Framework. I respond on behalf of my clients, Rydon Homes Ltd, who do wish to be invited to attend any re-opened Hearing.

The NPPF was published in March 2012 after the conclusion of the Hearings on 2nd February 2012 and after the publication of the Inspector's further suggested modifications on 5th March 2012. The contents of the NPPF have therefore not been taken into account in any of the formal process to date.

The NPPF represents a fundamental change in national policy. The Development Plan, of which the Core Strategy (CS) will ultimately form part, remains the starting point for planning decisions. Applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The requirement for the Development Plan to be in full accordance with the NPPF is therefore of paramount importance. It is highly desirable that local planning authorities should have an up-to-date plan in place. The proposed modifications to secure an early review of the Wealden CS are an expedient to compensate for the failure of WDC to fully investigate and address infrastructure delivery and to fully assess the impact of development on SPA and SAC sites, together with assessing the scope for mitigation. Any CS that is adopted, as currently proposed, will not remain up-to-date for long and, based on their past record of plan production timescales, there can be little confidence in WDC producing a review promptly. The NPPF states that Local Plans should preferably have a 15-year time horizon, take account of longer term requirements and be kept up to date. To contemplate the adoption of a Plan, that requires review from the outset, would not comply with NPPF policy (Paragraph 157), unless the rate of development proposed was compatible with the NPPF requirement of meeting the full, objectively assessed housing needs.

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This could be achieved by the Plan period being reduced to deliver the annual rate of housing provision required to meet the full housing need. A Plan period of at least 10 years should be sufficient to achieve this and the SHLAA has shown that there is sufficient quantity of suitable, available and deliverable sites to meet objectively assessed needs if the Plan period is shortened and the average annual rate of provision is increased as a consequence. The Plan review could then address the longer term situation giving time for matters that are currently regarded as "constraints" to be investigated and overcome.

The recent completion rates, achieved by the District during a period of recession, also demonstrate that annual housing completion targets that would be consistent with meeting demographic needs in full are deliverable. The Inspector's Proposed Modifications endorse the approach of reducing the Plan period and, as a consequence, increasing the average annual provision figure, but this needs to go further.

The main changes introduced by the NPPF are:-

1. The presumption in favour of sustainable development - seen as a golden thread running through plan-making and decision-taking (Paragraph 14);

2. The core planning principles (Paragraph 17) include:-

   - a plan-led system based on joint working and cooperation;

   - proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;

   - every effort should be made objectively to identify and then meet the housing, business and other development needs of an area.

   From the relevant Hearing sessions it is clear that few, if any, participants would consider that the CS in either its submitted form or as proposed to be modified, will achieve these objectives to any meaningful degree.

3. The requirement to "boost significantly" the supply of housing. Local Planning Authorities should:-

   "use their evidence base to ensure that their Local Plan meets the full, objectively assessed, needs for market and affordable housing in the housing market area". (Paragraph 47).

The CS does not do this and this is confirmed by the Inspector's preliminary findings (Letter of 5th March 2012). Reliance is placed upon S E Plan Policy NRM5 to show that the RS provision cannot be met. Such reliance is questionable because:-

a) WDC have not properly discharged the onus upon them to show why the full provision cannot be met either through full assessment of suggested adverse impact or its mitigation or the replacement of housing provision in adjoining Districts;

b) S E Plan policy will shortly be abolished leaving the CS without an up-to-date policy justification;

c) No equivalent justification for reduced housing provision can be found in the NPPF. The required protection for wildlife is through criteria-based policies (Paragraph 113), environmental assessment (Paragraph 166) and determining planning applications (Paragraph 118) where refusal of planning consent is only justified if significant harm cannot be avoided through locating on an alternative site with less harmful impacts, mitigation or, as a last resort, compensation. It is important that in development control terms the NPPF sees refusal as the final step beyond the last resort, all other avenues having failed. The corollary in plan-making terms is that reducing housing provision should be a very last resort measure after every alternative has been fully investigated. It should not be an easy or temporary expedient.

However, as suggested above, the further reduction of the Plan period would be consistent with aiming to meet housing requirements in full and would leave time for environmental and infrastructure constraints to be investigated and overcome before the development ceiling is reached. This is an approach that would be more compatible with NPPF guidance.

4. The Localism Act introduced the duty to cooperate, which applies to Local Planning Authorities in their plan-making role. Paragraphs 178 and 182 of NPPF makes it clear that public bodies have a duty to cooperate on planning issues that cross administrative boundaries, particularly those, which relate to the strategic priorities set out in Paragraph 156. These include:-

- the homes and jobs needed in the area as well as infrastructure provision and enhancement of the natural environment. The Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities. Paragraph 179 continues:-

"Local Planning Authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans. Joint working should enable Local Planning Authorities to work together to meet development requirements which cannot wholly be met within their own areas ....."

It is clear from the Hearing sessions that WDC have not made any meaningful attempt to engage with other local planning authorities and other public bodies to pro-actively seek to accommodate their housing requirement elsewhere. This could potentially make the Plan unsound because attempts have not been made to accommodate the shortfall in housing provision elsewhere. However if average annual completions targets are set at a level commensurate with meeting WDC's own objectively assessed housing needs then this aspect of the duty to co-operate would become less urgent.

5. Paragraph 182 of the NPPF also introduces a new test of soundness, namely that the Plan should be "positively prepared". This means that it should be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements, from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development. The CS does not do this. It is based upon an arbitrary housing requirement that admits to not meeting the S E Plan policy requirements or demographic projections and is tenuously justified by very thin evidence of;-

- the lack of headroom at WWTW's that could be addressed by Southern Water within the Plan period, if housing provision figures gave them the motivation/duty to do so;

- excessive nitrogen levels at one measurement location which is unexplained, uninvestigated and potentially capable of mitigation (see H R assessment October 2010);

- visitor activity that is capable of being mitigated by SANG provision;

- reliance upon DMRB methodology for the assessment of the increase of traffic that might give rise to significant impact, despite ESCC Highways agreeing that the methodology is crude and the only road nearing the threshold being tangential to Ashdown Forest and mainly remote from its borders.

This is not a strategy that positively seeks to meet objectively assessed development and infrastructure requirements. However, by reducing the Plan period, closer compatibility with NPPF can be achieved giving time for constraint issues to be addressed.

Conclusion

The CS Examination has not taken account of the NPPF to date. There are many conflicts between NPPF and the CS - in both its submission form and as it is proposed to be modified. In either form it invites a legal challenge. It is possible for the Plan to be further modified to address these serious conflicts by reducing the Plan period to allow time for constraints to be addressed but without jeopardising the annual flow of new housing that is required to meet housing needs.

Yours sincerely,

CHRISTOPHER HOUGH, BSc, FRICS

for Rydon Homes Ltd