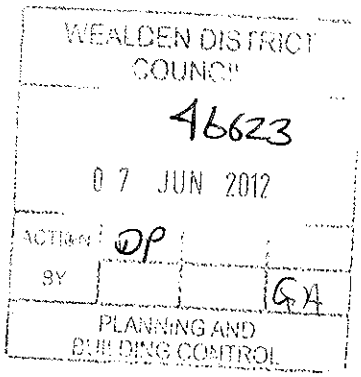



Head of Planning & Environmental Policy
Wealden District Council
Pine Grove
Crowborough

7th June 2012

**BY HAND**

Dear Sir or Madam

**Re: Wealden District: Representation on the Proposed Modification to the Core Strategy**

Please find enclosed my formal Representations on the above.

The primary thrust of my Representations is to argue for a "small development" exclusion within the 0.4Km to 7Km Ashdown Forest buffer zone but you will note that a number of other matters have been indentified as well that need to be considered and addressed.

The process from here is unclear to me so I would be obliged if you would advise me of the stages and timetable that will be followed, and when I am likely to receive considered feedback on my Representations.

Yours faithfully

Richard Thirkell

# Wealden District (Incorporating part of the South Downs National Park) Representation on the Proposed Modifications to the Core Strategy

Wealden District Council

Working in Partnership

South Downs National Park Authority

| This response relates to the proposed modification | |
|---|---|
| MM 33 | WS 35 |
| (Please add numeric reference e.g. MM22 or Wealden District Council/ South Downs National Park Authority modification WS e.g. WS 23) | |

| | |
|---|---|
| **Declaration:** | I consider the proposed modification will assist the submitted Core Strategy to be found ~~sound~~/unsound (*delete as applicable) for the following reasons: |
| **Reasons Given:** | PLEASE REFER TO THE ATTACHED SUBMISSION (COMPRISING 11 PAGES PLUS 3 COVER PAGES) |

| If this is a new matter that you have raised please complete the following<br><br>I wish/ ~~do not~~ wish (*delete as applicable) for this matter to be heard in front of the Inspector |
|---|

| Signed: | |
|---|---|

| Name and Address: | RICHARD THIRKELL |
|---|---|
| E-Mail Address: | |
| If on behalf of a company, please state: | n/a |
| Date: | 1st JUNE 2012 |

| Please delete as appropriate | |
|---|---|
| I would wish to be notified of the publication of the recommendations of any person appointed to carry out an independent examination of the Core Strategy | Yes / ~~No~~ |
| I would wish to be notified of the adoption of the Core Strategy | Yes / ~~No~~ |

**Note:** If completing this in hardcopy form, please use additional sheets if necessary.

Please return this form by **5pm on Wednesday ~~23rd May~~ 13TH JUNE 2012**:

**By post to: Head of Planning and Environmental Policy, Wealden District Council, Freepost SEA 10959, Crowborough, East Sussex, TN6 1BR**

**By email to: ldf@wealden.gov.uk**

Data Protection Act 1998 and Freedom of Information Act 2000

Representations cannot be treated in confidence. Regulation 30 of the Town and Country Planning (Local Development) (England) Regulations 2004, as amended, requires copies of all representations to be made publicly available. The Council will also provide names and associated representations on its website but will not publish personal information such as telephone numbers, e-mails or private addresses. By submitting a representation on the Proposed Modifications you confirm that you agree to this and accept responsibility for your comments.

Please telephone 01892 602007 or e-mail ldf@wealden.gov.uk if you require assistance in submitting your representation or if further information is required. If you, or somebody you know, would like the information (guidance notes, forms etc) in large print, braille, audio tape/CD or in another language please let us know.

Wealden District

TO: Head of Planning and Environmental Policy, Wealden District Council, Feepost SEA 10959, Crowborough, East Sussex, TN6 1BR

This representation is copied to:

Mr Michael Moore, HM Inspector of Planning, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN

## REPRESENTATION ON THE PROPOSED MODIFICATIONS TO THE CORE STRATEGY

This response relates to MM33 (WS35)

Declaration: I consider the proposed amendment will assist the submitted Core Strategy to be found UNSOUND

This Representation is submitted by:

√ I would wish to be notified of the publication of any person appointed to carry out an independent examination of Core Strategy

√ I would wish to be notified of the adoption of Core Strategy

Signed

Richard Thirkell

Date 1st June 2012

## 1. Executive Summary

The primary purpose of this Representation is to argue a compelling case for an exemption to MM33 in relation to "small windfall sites" but much of this Representation also applies to "windfall sites" in general. In the process of preparing this Representation further issues relating to MM33 have been identified as a by-product which are summarised at the end in Section 6.

The term "windfall development" is defined in the Core Strategy as all residential development going forward apart from residential development within the designated SDA's. To be clear, though, this Representation is primarily concerned with the effect on small-scale "windfall development" within the 7Km zone.

No evidence has emerged during the process leading up to MM33 to suggest that "small windfall sites" either individually or collectively are likely to pose a significant problem in terms of visitor impact on the Ashdown Forest, yet "small sites' will be caught under the present drafting of MM33 which will result, if not corrected, in a negative impact upon other social and planning polices, especially within the 7Km zone.

Whilst accepting the mitigation principles in the Proposed Submission Core Strategy - *which only pertain to the identified SDA's within a 7Km zone and relate exclusively to concerns over* the *increase in recreational visits to the Ashdown Forest which these SDA's might cause to bird habitat* - MM33 goes too far, is unjustified and disproportionate in relation to the alleged problem it is purporting to address. If adopted, it will make unsound policy.

In particular, MM33 will 'capture' even small-scale residential development both in urban and rural areas within the 7Km zone right down to one or two dwellings. Although not made clear, it could even apply to domestic extensions if deemed to materially intensify the current use.

Small-scale residential development enables:

- areas to change organically, especially rural areas, with negligible, if any, impact on the environment and infrastructure, and more often with truly positive results.
- villages, the countryside, and small rural communities to change and adapt providing them with the vitality necessary to maintain them as viable places to live and work in a sustainable way.
- the implementation of countryside policies being actively promoted by English Heritage and The High Weald ANOB, in particular those which recognise the contribution rural buildings make to the historic landscape and the need to encourage their use, re-use, and preservation.

MM33, by capturing small-scale windfall development will:

- disproportionately impact private individuals, self-builds, and small businesses ( as they are unable to set off the full impact of the mitigation charges and higher planning costs against National Taxation in the same way as large developers.
- seek to address a problem arising out of small scale residential development that has not been proven to be a material issue in terms of the impact of recreational visits to the Ashdown Forest on bird habitat.
- will give credibility to the misconception that small scale development has, prima facia, a material detrimental impact on the Ashdown Forest. This, if unchecked, will further encourage planning application decision makers to attach greater weight to

habitat issues relative to, and at the expense of, other social policies especially those concerning the countryside and rural areas.

- make small-scale development more expensive, risky in terms of planning, and even less likely to come forward contrary to the Inspectors wishes "not to delay windfall development that would otherwise be acceptable"
- exclude small sites without justification from a core NPPF policy, that being a presumption in favour of sustainable development.

It is further noted that both the Inspector's Findings/Recommendations and the UE Associates Report (referred to in more detail later in this Representation):

1. Make no reference to the relatively recently established wildlife reserves at Broadwater Forest (owned and controlled by the RSPB and Sussex Wildlife) and the extent their ongoing development is (i) already mitigating recreational visits to the Ashdown Forest and (ii) creating new bird habitats. This strongly suggests that the 2008 survey data upon which the recommendations are based, is now out of date and incomplete.
2. Contain no empirical analysis linking the perceived cause (visitors) to the effect (damage) apart from references to dog walkers. If dogs are the major factor, which appears to be the case, then the real solution is to control them (as on many RSPB sites and elsewhere).
3. Contain no reference to, or analysis of, alternative methods of (i) controlling visitor numbers to the Ashdown Forest (eg: curbing the promotional activities of the Conservators, Friends, High Weald ANOB, ESCC, WDC etc) and (ii) controlling visitor activities while they are there (dogs on leads, selective closure of car-parks and rides etc). Whilst it is acknowledged that there are cost implications, no case has been made for imposing these costs on windfall development; instead they should be met by a much wider and fairer cross section of stakeholders in the Ashdown Forest.
4. Make no attempt at a cost benefit analysis to compare the benefits to bird habitat with the wider costs to society in terms of impact on other, very valid, planning objectives.
5. Do not support Wealden District's Council's contentions that the issues of Visitor Impacts and Nitrogen levels on the Ashdown Forest are both part of the same problem and therefore warrant the same one-size-fits- all solution now being pursued by Wealden District Council.
6. Make no recommendation for the composite and co-ordinated management of wildlife protection policies within the Ashdown Forest 7Km zone as between <u>all</u> the locally democratically accountable, authorities operating within this zone

This Representation therefore calls upon the Inspector and Wealden District Council to fundamentally reconsider MM33, on the grounds that it is too over bearing and is based on unsound/incomplete research and flawed analysis/logic.

In particular, special consideration needs to be given to excluding "small scale windfall residential development from the proposed SANG/mitigation requirements, small windfall developments being proposed as 5 dwellings or less (consistent with the threshold for social housing) within town and village boundaries and 2 dwellings or less elsewhere. This will provide a measured response to the advantages of small-scale development described above without prejudicing the aims and objectives of the Ashdown Forest SPA.

## 2. Background & Introduction

The Proposed Submission Core Strategy is the document dated February 2011.

The Proposed Submission Core Strategy is Wealden District Council's response (arrived at following Public Consultation) to a Government directive requiring Local Authorities to make more adequate land release provision for new housing development. This strategy document primarily focused on identifying potential land allocations and dealing with the matters arising out of those allocations including, inter-alia, the recreational impact on the Ashdown Forest as a result of increased use occasioned by the higher resident population that these land allocations might create.

A material impediment for the public in the Public Consultation process is the absence of any detail, proposal, or clarity over the SANGS/mitigation measures for "windfall development" *of any size, small or large* (and also for the SDA's). This renders it impossible to gain a full understanding of the wider implications of MM33.

However, it is already clear that MM33 radically changes the original provisions of the Proposed Submission Core Strategy relating to "windfall development" to the extent it is now proposed that all "windfall development" is subject to mitigation measures at least comparable to the measures envisaged in the Proposed Submission Core Strategy for the SDA's themselves. The acceptance /implementation of this radical recommendation by Wealden District Council before further Public Consultation, is not only unconstitutional but also at odds with the principles of localism.

What has happened is that the National Parks Authority, The South Downs National Park, and Wealden District Council have, post February 2011, sought to further influence Core Strategy through asking the Inspectorate to opine under Section 20(7C) of the Planning & Compulsory Purchase Act 2004. This provision, as amended by the Localism Act of November 2011, permits the Inspector to rule on soundness provided that he or she only recommends modifications required for a finding of soundness *if the local authority asks for them*. How far the duties of the Inspector extend is the subject of much contention. The Inspector delivered his recommendations on 4th March 2012.

The evidence and analysis upon which the far-reaching change recommended in MM33 is a report by UE Associates dated 11th August 2011 commissioned by, and addressed to, Wealden District Council. This also obviously post-dates the February 2011 Proposed Submission Core Strategy and was evidently considered by Wealden District Council in conjunction with the National Parks Authority to be new evidence that justified requesting an Inspectors opinion under Section 20(7C).

The arguments in the UE Associates Report for very considerably extending the constraints on residential development within the 7Km zone are centred on bird habitat, in particular that of the Dartford Warbler and Mudlark. These arguments are not well founded and are contradicted by the internal and antiquated statistical evidence contained within the report itself. Most crucially, through its single focus on bird habitat, it fails to consider the impact on other very important planning policies and objectives. It is therefore a narrow and incomplete assessment.

## 3. Proposed Submission Core Strategy February 2011

At this juncture, it is necessary to recap what the Core Strategy document actually says.

In relation to new housing and its impact on the Ashdown Forest, the Proposed Submission Core Strategy states in Para 3.32, page 20:

"..... it will be necessary to reduce the recreational impact resulting from new housing development within 7Km of the Ashdown Forest by ..... creating an exclusion zone of 400M for net increases in dwellings..... requiring (*in the rest of the 7Km zone*) the provision of Suitable Alternative Natural Green Space (SANGS) in Uckfield and Crowborough and on-site management measures at Ashdown Forest....."

It is important to recap the context in which Para 3.32 appears in the Core Strategy dated February 2011 in relation to new housing development:

Paras 3.8 to 3.17, pages 13 to 15 which precede Para 3.32 refer to new housing development as being the sites identified to provide additional 9,600 dwellings between 2006 and 2030. This includes 4889 dwellings committed through extant consents and land allocations (para 3.8) and 12 potential new releases called Strategic Development Areas (SDA's) providing a further 4,685 dwellings (total 9574 dwellings). This analysis and the numbers are confirmed in policy recommendation WCS2 on page 26.

In relation to Crowborough and Uckfield, both area strategies immediately follow sections that again refer to the SDA selection process (for Uckfield that is 6.9, page 36 and for Crowborough that is para 6.38, sub para 10) and include the words " ensuring (that) relevant developments make an appropriate contribution to the planned and timely provision of suitable alternative natural green space (SANGS), which will provide an alternative recreational destination for local people, and other mitigation measures on the on the Ashdown Forest". The Crowborough strategy goes onto reinforce the 400m exclusion zone referred to in 3.32.

One purpose in reciting the above is to remind Wealden District Council and the Inspector that the correct and accepted interpretation of "new housing development" in 3.32 and "relevant developments" in 6.38 is development relating to the proposed 12 SDA's. Also, very importantly, the SDA's and the SANGS/other mitigation measures were seen as inextricably linked to each other.

This is further reinforced by para 5.9 on page 27 on windfall development which it defines as residential development outside Policy WCS2. Para. 5.9 makes no link between windfall development and SANGS/mitigation measures, merely stating that "the Council will need to ensure that the unplanned development of windfall site not conflict with strategy in terms of local infrastructure.

In the Proposed Submission Core Strategy it is therefore unequivocal that windfall development (outside the SDA's) is not included in the proposed SANGs/mitigation measure regime and is only to be regulated to the extent it is necessary to control windfall developments should it collectively move ahead at a pace that outpaces planned development (i.e. the SDA'a) and starts to overload local infrastructure.

All this makes sense and is logical. It is the Public's understanding of what has been approved, through due process.

## 4. The Inspectors Letter of 5th March 2012

Paras 22 to 24 of the Inspectors letter radically changes The Proposed Submission Core Strategy in relation to "windfall development".

More specifically:

Para 22

(i) That no new residential development will be permitted within the 400M zone (there is no reference to "net gain").

(ii) That all new residential development (whether in the SDA's or not) in the 0.4M to 7Km zone, thereby including "windfall", will be required to contribute to " SANGS, an access strategy for the Forest and a programme of monitoring and research".

There is no direct reference made by the Inspector to the evidence that has influenced him but the Council's web-site contains a PDF of a study undertaken by UE Associates dated August 2011 entitled "Assessment of the Core Strategy under the Habitats Regulations". The Inspectors recommendations appear to adopt, almost verbatim, Recommendations B1, B2, B3, B5and B6 of that report.

This report, inter-alia, looks into the potential impact of an increase in visitor numbers on bird habitats on the Ashdown Forest. It found that the current visitor numbers of 2.17 visitors per Ha over 16 daylight hours (2008 survey) is undamaging to bird habitats and significantly less than at the comparable Thames Basin SPA where the visitor number is 3.7 which is the level at which SANGS etc were introduced. Nevertheless, without clear justification, the report concluded that there was insufficient 'head-room' on the Ashdown Forest to accommodate the proposed expansion of population in Crowborough and Uckfield, as proposed in the SDA's, without detrimental effect.

**This conclusion is directly contradicted by the internal evidence of UE Associates own report as the following analysis shows:**

- One of the report's findings is that Crowborough and Uckfield (the only towns listed within Wealden District) combined would together create 16.1 extra visits every 16 daylight hours for every 100 extra dwelling built.
- The area of the Ashdown Forest is some 2,500 HA (source: Ashdown Forest web-site) so the 16.1 visits referred to in the above paragraph equates to 0.00644 visits **per HA** per 100 dwellings.
- Current visitor levels of 2.17 per HA , which are deemed satisfactory, would have to increase by 1.53 visits per HA to reach the Thames Basin SPA threshold.
- To generate this increase at the rate of 0.0064 visits per 100 extra dwellings would require 2,390 new dwellings.
- 2390 new dwellings are considerably in excess of the 1,300 Core Strategy SDA provisions for Crowborough and Uckfield (see WCS2). The Frant SDA, which is outside the 7Km zone, adds only 120 dwellings.

In context, the 970 new dwelling "headroom" is over quadruple the historic and projected annual provision of windfall development *throughout the whole of Wealden District*. The amount of anticipated "windfall development" (i.e. development outside the SDA's) specifically within the proposed 7Km zone has not been investigated by UE Associates, The Inspector, or Wealden District Council. This is a major failing because with no supporting justification all residential development in the SDA's plus all "windfall development" are lumped together as one in the recommendations of both UE Associates and the Inspector.

Presumably because it is outside UE Associates brief, no analysis has been conducted of the consequences of this on other planning policies (especially very important policies relating to rural areas) or even whether including "windfall development" will materially contribute to the apparently desired financial outcome for the Ashdown Forest and SANGS. In other words, there is no evidence that a thorough Cost Benefit Analysis has been undertaken to establish whether the perceived benefits to bird habitats are significant and substantially outweigh other social costs.

Of note, the UE Associates Report does not justify the 7Km zone in terms of population distribution and growth in North Weald and the potential visitor impacts that could arise. An attempt at such justification would be logical but instead it makes a totally unconnected reference to precedent set elsewhere *in relation to the physical location of SANGS (*P32).

It is further noted that both the Inspector's Recommendations and the UE Associates Report:

1. Make no reference to the relatively recently established wildlife reserves at Broadwater Forest (owned and controlled by the RSPB and Sussex Wildlife) and the extent their ongoing development is (i) already mitigating recreational visits to the Ashdown Forest and (ii) creating new bird habitats. This strongly suggests that the 2008 survey data upon which the recommendations are based, is now out of date and therefore misleading.
2. Contain no empirical analysis linking the perceived cause (visitors) to the effect (damage) apart from frequent references to dog walkers. If dogs are the major factor, which could appear to be the case, then the real solution is to control them (as on many RSPB sites and elsewhere).
3. Contain no reference to, or analysis of, alternative methods of (i) controlling visitor numbers to the Ashdown Forest (e.g: curbing the promotional activities of the Conservators, Friends, High Weald ANOB, ESCC, WDC etc) and (ii) controlling visitor activities while they are there (dogs on leads, selective closure of car-parks and rides etc). Whilst it is acknowledged that there are cost implications, no case has been made for disproportionately imposing these costs on a small minority of the local community (i.e. new small scale development)
4. Make any attempt at a cost benefit analysis to compare the benefits to bird habitat with the wider costs to society in terms of impact on other, very valid, planning objectives.
5. Do not support Wealden District's Council's contentions that the issues of Visitor Impacts and Nitrogen levels on the Ashdown Forest are both part of the same problem and therefore warrant the one-size-fits- all same solution being implemented already by Wealden District Council ahead of the Public Consultation Process.

6. Make no recommendation for the composite and co-ordinated management of wildlife protection policies within the Ashdown Forest 7Km zone as between all the locally democratically accountable, authorities operating within this zone

Turning now to Para 23 of the Inspector's letter:

Paragraph 23 looks at the impact of the measures recommended by the Inspector and notes that the impacts will be primarily on Crowborough and Uckfield and villages within the buffer zones. Note: The buffer zones are not defined by the Inspector but for the purpose of this Representation assumed to be the 0M to 400M and 400 to 7Km zones.

The Inspector noted that in relation to the 'in-town' SDA's suitable SANGS can be provided.*

*It is noted there is only one in-town SDA (SD8) where Wealden District Council has a substantial financial interest. The SANGs provision is not specified but appears to be other public space.

The Inspector made no comment on the SANGS provision relating to all the SDA's 'out-of-town'. This appears to be a significant omission.

Instead, the Inspector went onto address "windfall planning applications and smaller sites where SANGS cannot be provided on site" by saying " there is the possibility that otherwise acceptable development might be delayed while suitable SANGS are identified and bought forward".

Note there is a distinction drawn in this paragraph by the Inspector between "windfall planning applications" (i.e. all residential development outside the SDA's but within the 0.4Km to 7.0Km zone which, of course, could still be very substantial developments) and "small sites". However this distinction is not followed up.

Para 24

In relation to "windfall planning applications and smaller sites where SANGS cannot be provided on site" the Inspector has required the Council to "identify suitable SANGS and develop an on-site management strategy"

A full understanding of these proposals is an absolute pre-requisite to gaining a full appreciation of the impact of MM33, which, as already demonstrated, is a radical departure from the Proposed Submission Core Strategy. There are currently no proposals on the table for Public consideration /consultation from Wealden District Council in this regard. Instead, the Council has place a moratorium on granting any new planning permissions for development within the 7Km zone while proposals are worked up. The advice from the Council is that this could take several months and therefore extend well beyond the expiry of the Public Consultation Period.

This Representation now turns to seeing how the Inspector has translated the intentions in Paras 22 to 24 of his report into MM33, with the assistance of Wealden District Council.

## 4. MM33

This amendment is meant to reflect paras 22 to 24 but:

- the Inspector is now back to talking about "net increases" in the 400M zone; whilst agreeing with this amendment, it is pointed out to illustrate an inconsistency.

- requiring SANGS in respect of SD1, SD8, SD9, and SD10 ( these are all the SDA's in the 7Km zone) having already said in Para 23 of his letter that the SANGS provision for SD8 is acceptable. Another inconsistency.

- "mitigation measures, including SANGS, " are required for all "windfall development". The concept of "small sites" does not appear here so "windfall development" is a catch-all term. Another inconsistency.

- In relation to "windfall developments", Wealden District Council is under an obligation to work up SANGS, on-site management measures, and link in with a green network strategy, so that otherwise acceptable development is not prevented from coming forward by the absence of acceptable mitigation. Note: in requiring SANGS for SD1, SD8, SD9, and SD10 the Inspector has not specified the work to this level of detail implying a potentially more onerous requirement on SANGS for "windfall developments".

- MM33 concludes with a comment on Nitrogen (from paras 13 to 16 of the Inspectors 5th March report) saying this needs to be more fully understood and mitigated if appropriate. This is supported by a statement in the UE Associates Report which says at para 5.8 " since the Core Strategy has been found to be neutral in relation to air quality on roads local to European sites, as defined by DMRB guidance, there can be no residual impact" but recommends on-going monitoring. Both reports clearly identify and also clearly address the two individual issues of Nitrogen and Visitor Impacts as <u>separate</u> problems requiring <u>separate</u> solutions (compared to the inelegant one-size-fits-all policy currently being promoted by Wealden District Council) viz:

- Visitor impact is concerned with bird habitat, in particular that of the Mudlark and Dartford Warbler.

- Nitrogen Pollution is all about through traffic, traffic management, overflying aircraft etc. Visitor traffic, if it has an impact at all on Nitrogen Pollution, is de-minimus compared to the primary causes identified by UE Associates.

Therefore the two are totally different issues.

Wealden District Council in correspondence with me has sought to justify linking the two with the same one-size-fits-all solution by referring to the Inspector's comment in Para 15 of his letter which says *"there is sufficient evidence at this point on a precautionary basis to restrict further development in north Wealden beyond that in the CS"*. This comment, in context, is advisory/explanatory and refers only to the need to control the release of the SDA's more closely than originally envisaged pending the result of further studies etc over the "long term". This quote by the Inspector has therefore been taken by Wealden District Council wholly out of context and illustrates local concerns that Wealden District Council has, itself, failed to properly understand MM33 and has acted inappropriately. The above-mentioned quotation is also being used by Wealden District Council as justification for additionally capturing commercial development as well as residential development under the same mitigation umbrella. <u>MM33 is not concerned with commercial development</u>.

## 5. Conclusion re: Small Sites

In arriving at his recommendation in MM33, The Inspector discovered, but then lost, the concept of "small sites".

No evidence has been produced to suggest that "small windfall sites" either individually or collectively pose, or are likely to pose, a significant problem in terms of visitor impact on the Ashdown Forest. In this context, MM33 is seeking to address a problem that has not been demonstrated to exist.

Failure now to follow up the concept of small sites, define them, and exempt them from the mitigation provisions within the 0.4Km to 7Km zone, will:

- disproportionately impact private individuals and small businesses ( as they are unable to set off the full impact of the mitigation charges and higher planning costs against National Taxation in the same way as large developers).
- be seeking to address a problem arising out of small scale residential development that has not been proven to be a material concern in terms of controlling the impact of recreational visits to the Ashdown Forest.
- give credibility to the misconception that small scale development has a material detrimental impact on the Ashdown Forest. Left unchecked, this will further encourage planning application decision makers to attach greater weight to habitat issues relative to, and at the expense of, other social policies especially concerning the countryside and rural areas.
- make small scale development more expensive, risky in terms of planning, and even less likely to come forward contrary to the Inspectors wishes "not to delay windfall development that would otherwise be acceptable
- exclude without justification small sites from a core NPPF policy, that being a presumption in favour of sustainable development.

The Inspector and Wealden District Council are strongly urged to reconsider MM33, in particular by providing exemption within MM33 in relation to "small windfall sites", especially in rural areas.

"Small sites " have been defined in other Core Strategies as:

*.... small housing sites involving less than 10 dwellings (i.e. not a major application).....*

Given the Special Protection Status afforded to the Ashdown Forest and other policies, this threshold could, it is submitted, be lowered to sites involving less than 5 dwellings in the 0.4 to 7Km zone within town and village boundaries (consistent with the threshold for affordable housing) and less than 2 dwellings elsewhere in the 0.4 to 7Km zone.

The Inspector has acknowledged in Para 22 of the 7th March Report that the 7Km zone is broader than used elsewhere (5Km is used for both the Dorset Heathland and the Thames Basin SPA's), so the Proposed Submission Core Strategy had already envisaged a higher than normal level of wildlife and heathland protection for the Ashdown Forest. This proposed amendment to MM33 will not undermine the principles and objectives of the Ashdown Forest SPA but instead will provide an appropriately measured level of encouragement for local areas, rural communities and the historic countryside to change and adapt in an organic fashion to help them be viable and sustainable places in which to live and work.

Given that no substantive evidence exists that shows harm to the Ashdown Forest would result from a "small sites" exclusion, such an amendment would be fully consistent with the NPPF and will not breach EU Habitat Directives. These two legal considerations are not referred to by the Inspector but given considerable weight by Wealden District Council in the actions it has taken following the Inspector's letter. It is noted that the EU Habitats Directives date back to 1992 – pre Core Strategy- begging the question why, if it is such an issue, this was not identified and considered pre February 2011? The survey data was, after all, available from 2008. The NPPF, although introduced as recently as March 2012, was widely trailed and in any event merely states in Para. 216 – a paragraph quoted by WDC as legal justification of their actions - that due regard has to be given to upcoming policies.

Mr Kelvin Williams, Head of Planning at Wealden District Council, observed in his speech at the Withyham Parish Assembly on 16th April 2012 that the combined effects of MM33 and other recommended modifications to Core Strategy would be to make the 7Km zone virtually National Park status without actually designating it such. This is not what the local community has approved, understands, or has voted for.

**6. Summary of Other Issues identified in this Representation arising out of MM33**

1. The lack of any proposals as to the SANGS/Mitigation Measures.
2. The dichotomy between wild-life concerns and the need to meet housing targets
3. The weak justification for a protection zone as big as 7Km compared to other comparable SPA's. (However, as the 7Km is already accepted in the Draft Core Strategy this level of proposed extra protection is mentioned here for reminder purposes as relevant background for considering MM33).
4. The inconsistencies between the Inspector's letter of 5th March 2012 and MM33
5. The public actions/interpretations of Wealden District Council in response to MM33 and the 'confusion' within the Council as between the causes and problems of Visitor Impacts and Nitrogen Pollution.
6. The lack of a transparent and co-ordinated approach between Wealden District Council and the other Local Government Authorities that fall within the 7Km zone.
7. There is no evidence of any rational/open discussion having taken place, or case being made, relating to the efficacy and fairness of imposing levies on windfall development to pay for management schemes for the Ashdown Forest (and SANGS), instead of these costs being met by a much wider and fairer cross section of stakeholders in, and beneficiaries of, the Ashdown Forest.
8. Following on from 7. above, the interplay between the Mitigation Payments and the upcoming highly controversial Community Infrastructure Levy (with which the Mitigation payments can be compared) has not been considered.
9. The extent that Wealden District Council is conflicted in promoting SD8 and in the SANGS provision for it, ahead of any other SANGS provisions.
10. The absence of a robust challenge to the unstated assumptions behind MM33 that the solution to visitor impacts and Nitrogen concerns are Town Planning ones and that more effective solutions cannot be achieved through a combination of alternative policies, possibly by other organs of Government more directly responsible/concerned with these issues (e.g. ESCC as owners of the Ashdown Forest and the Local/National Government departments responsible for roads/traffic management and aircraft routing in and out of Gatwick).

END