Policy WCS1

Legally Compliant - No

Sound - No

Justified - X

Effective -

Consistent with national policy - X

1.0 **Please give details of why you consider the Core Strategy not legally compliant or is unsound.**

1.1 The Planning and Compulsory Purchase Act (2004) (PCPA 2004) provides a legislative basis which informs Core Strategies must be in general conformity with the Regional Spatial Strategy (RSS) for the area, in this case the South East Plan (2009). (Planning and Compulsory Purchase Act 2004 Section 24 (1) (a)).

1.2 The South East Plan indicates a housing provision for Wealden District between 2006 and 2026 of 550 dwellings per annum. With housing delivery at this rate the South East Plan requires 13750 dwellings to be delivered during Wealden District Council's proposed plan period. The Wealden District Proposed Core Strategy advocates a much lower figure of 400 dwellings per annum from 2006 to 2030. This is a significant shortfall against the amount of housing required by the RSS which represents the minimum required. In this respect the Proposed Core Strategy is deficient as it fails to take account of its legal obligations and is not legally compliant.

1.3 The Localism Act 2011 has now received Royal Assent, is likely to ultimately make provision for the abolition of Regional Spatial Strategies excluding the London Plan.

1.4 Advice from the Planning Inspectorate issued to its Inspectors on 17th November 2011 confirms that the intended revocation of Regional Spatial Strategies is subject to the

outcome of the environmental assessments that DCLG are undertaking, the consultation on this matter does not close until 20th January 2012, after the examination of the Wealden District Proposed Core Strategy has begun.

1.5 Moreover the advice informs that *'pending consideration of the RS environmental assessment reports and any subsequent revocation orders,* ***the position on the Government's policy intention to revoke existing RS outside London remains unchanged****.'* (Paragraph 5) (Our Emphasis)

1.6 The requirement imposed by section 24(1) (a) of the PCPA 2004 that local development documents must be in general conformity with the RSS has also been considered by The Court of Appeal. Cala Homes (South) Ltd, R (on the application of) v Secretary of State for Communities and Local Government & Anor [2011] EWCA Civ 639 (27 May 2011) indicates *'it would be unlawful for a local planning authority preparing,* ***or a Planning Inspector examining****, development plan documents to have regard to the proposal to abolish regional strategies'* (Paragraph 24) (Our Emphasis)

1.7 The requirement imposed by section 24(1) (a) of the PCPA 2004 was considered further in Stevenage BC v. Secretary of State. It was held that the requirement that a DPD must be in general conformity with the regional strategy applies at the time of submission.

1.8 Paragraph 10 of schedule 8 to the Localism Act provides that paragraph (a) in subsection (1) of section 24 PCPA 2004 will be omitted; that provision is not yet in force.

1.9 It clear that pending abolition, Regional Spatial Strategies remain part of the Statutory Development Plan with weight given to them depending on the individual circumstances and determined by the decision maker, the Council's legal obligation to produce a plan in general conformity with the RSS still remains and as such the Proposed Core Strategy is not legally compliant.

1.10 The Rt Hon Greg Clark MP released a written statement entitled 'Planning for Growth' on 23rd March 2011. In this the Government advises Local Planning Authorities that they *'should make every effort to identify and meet the housing, business, and other development needs for their areas'.*

1.11 On 31st March 2011 the Planning Inspectorate issued advice to its Inspectors on this matter. This indicates that *'Inspectors should, in relevant casework, have careful and full regard to the principles in Greg Clark's statement that significant weight should be attached to the need to secure economic growth and employment.'* (Paragraph 2)

1.12 This is a very important and significant consideration which must be seen in the light of the latest housing projections by DCLG Table 406 'Household Projections by District'. This demonstrates an anticipated increase of around 15, 500 households between 2006 and 2030 in Wealden District. The Council do not intend to meet this identified housing need. The Council also do not intend to meet the housing need identified by East Sussex County Council which indicates that 13,212 additional households will be required between 2006 and 2030.

1.13 The Planning for Growth Statement is unequivocal that Local Planning Authorities should strive to meet housing needs for their area. The Council's Strategic Housing Land Availability Assessment Report (March 2010) successfully identifies enough housing land to meet the housing need set out in DCLG Table 406. The SHLAA confirms a supply of suitable sites that are currently outside of the planning process capable of delivering a total of 18,257 dwellings in the period between 2009 and 2026.

1.14 The draft National Planning Policy Framework seeks to deliver a quantum of housing development commensurate with local requirements having regard to the particular circumstances of the area. (Paragraph 112) This is in line with the content of Planning Policy Statement 3 'Housing', Paragraphs 3,9,10,30 and 38 re-issued as coalition Government policy in June 2011.

1.15 The draft National Planning Policy Framework is explicit when it states that Local Planning Authorities should *'use an evidence-base to ensure that their Local Plan* ***meets the full requirements*** *for market and affordable housing in the housing market area'* (Paragraph 109) (Our Emphasis)

1.16 Wealden District Council should therefore seek to utilise a greater portion of the suitable sites which they have identified to meet the above national policy. At present the Proposed Core Strategy is 'unsound' as it does not meet National Planning Policy and it is not legally compliant as it has not had regard to this national planning policy as Section 19 2 (a) of the PCPA 2004 requires.

1.17 This approach is further supported by policy H2 viii and paragraph 7.6 of the South East Plan which encourages and supports growth over and above that identified in policy H1 in view of the acknowledged presence of higher forecasts at the time the RSS was approved.

1.18 The overall District wide housing allocation proposed in WCS1 is deficient because it does not deliver enough houses to meet an identified need. The Core Strategy is not in general conformity with the RSS. It is therefore not consistent with national policy or legally compliant and therefore is unsound.

2.0 **Please set out what change(s) you consider necessary to make the Core Strategy legally compliant or sound, having regard to the test you have identified where your comment relates to soundness.**

2.1 If the policy was altered to take into account the numerical changes we have identified as being necessary we suggest:

WCS1 Provision of Homes and Jobs 2006-2030
Land will be identified in subsequent Development Plan Documents for the provision of 15500 additional dwellings in Wealden District over the period 2006-2030.