

**Rother Development and Site Allocations Local Plan
Examination**

Matter 4: Development Policies

Statement by Rother District Council

17 April 2019

**Please note all references to documents listed in this statement can be found
in the DaSA Examination Documents List at:
www.rother.gov.uk/dasa/examination**

Introduction

1. This statement presents the Council's evidence in relation to the key issue raised by the Inspector concerning development policies, namely:

Are the development management policies sound, compliant with the Core Strategy, national policy and evidence?

2. In responding to this key issue, attention is given to the specific questions raised by the Inspector on the particular policies identified.

Resource Management

Policy DRM1: Water Efficiency

Q: Is there sufficient evidence to justify a policy requirement of 110 litres per day as opposed to the mandatory national standard of 125 litres per day, in accordance with Planning Practice Guidance?

3. This policy builds on Policy SRM2 of the Core Strategy which confirms the pressures on water resources in the District and that further consideration of efficiency measures will be made through the DaSA Local Plan¹. Justification for the DaSA policy is set out in the Council's Water Efficiency Background Paper (Reference SC1), which, subject to the updates below, remains relevant and up to date.
4. As noted at paragraph 14 of the Background Paper (BP), Rother district is within an 'Area of Serious Water Stress' as identified by the Environment Agency, meaning that under the relevant Regulations, water companies need to evaluate compulsory metering alongside other options when preparing Water Resource Management Plans (WRMPs).
5. Relevant information from the WRMPs for Southern Water (SW) and South East Water (SEW) is at paragraphs 33-39 of the BP. Since publication of the BP, SEW has published a Revised WRMP and SW is currently reviewing its WRMP. While both revised documents find that water use is generally decreasing, both confirm the importance of continued water efficiency measures to further reduce per capita water consumption in this Area of Serious Water Stress. SEW recognises achieving its target will require collaboration with and coordination of effort by Government, regulators and wider stakeholders to make the necessary step changes to existing legislation, water use standards for appliances and buildings, strategic policy and local planning conditions.

¹ Paragraph 13.29 of the Core Strategy

6. These findings further support the conclusion of the Background Paper that there is a clear local need for new dwellings to meet the enhanced Building Regulations optional requirement of 110 litres/person/day.
7. The viability impact of the policy has been considered² in combination with other financial development impacts, the findings being that the additional costs on a development of implementing the water efficiency measures would be less than £50 per dwelling, and therefore, de-minimus.

Communities

Policy DCO1: Retention of sites of social or economic value

Q: Is this policy intended to replace Policy EC3 of the Core Strategy? If not is there duplication or lack of clarity in respect of existing employment sites?

8. This Policy is not intended to replace Policy EC3 of the Core Strategy – DEC3 is proposed to replace EC3. Policies DCO1 and DEC3 are considered to be complementary.
9. Policy DCO1 sets out the approach to be taken to demonstrate that a site of social or economic value is genuinely redundant. It outlines the evidence that should be provided if an alternative use for the site is to be proposed including viability and marketing evidence. The Policy requires evidence to show that there is lack of demand for the site for the existing use and the last use of the site cannot be continued because it is unviable and as such, protects the sites that are considered to be of value. The Policy explains that this relates to a wide range of uses including community facilities, shops, public houses and not just employment sites. The Policy therefore supports DEC3 of the DaSA and CO1 and RA1(iii) of the Core Strategy and is not a duplication of a Core Strategy Policy.

² Rother Local Plan Viability Assessment (Reference SH2), Paragraph 5.44

Housing

Policy DHG1: Affordable Housing

Q: Is it justified to use the threshold figures in the 2018 National Planning Policy Framework when this Plan is being examined against the 2012 National Planning Policy Framework in accordance with the transitional arrangements?

10. The NPPF 2012 does not specify affordable housing thresholds. However, the minimum thresholds set out in the 2018 NPPF are similar to those adopted in the Core Strategy. The thresholds set out in DaSA Policy DHG1 are the same or slightly higher than those set through the Core Strategy Policy (LHN2). The proposed thresholds are not at odds with the 2012 framework and have been amended slightly to have regard to the latest government policy contained within the 2018 NPPF.

Policy DHG2: Rural Exception Sites

Q: Is the use of the term ‘modest’ sufficiently clear and understood so as to make the policy effective?

Q: Would this provision ensure that the local housing need objectives set out in paragraph 15.7 of the Core Strategy would be met?

11. The final part of the policy explains that “a modest amount of enabling open market housing *will be acceptable where it is demonstrated, with viability evidence, that it is the minimum necessary for the delivery of a suitable scheme, having regard to the criteria above*”. Therefore, the policy is clear in stating that viability evidence will need to be provided which shows that the amount of market housing proposed is the minimum required to make the scheme viable.
12. This policy is substantially the same as Core Strategy Policy LHN3, but with the additional paragraph that allows for some market housing for the purpose of cross-subsidising a scheme. The Council has undertaken an Overview and Scrutiny Review³ which concluded that allowing a modest amount of market housing on exception sites may boost their delivery in the rural areas.

³ Cabinet minutes, Monday 30 July 2018 (Reference PS13)

13. It is considered that the provision of enabling open market housing on these sites would still enable the local housing needs objectives as set out in the Core Strategy to be met. Allowing some market housing on rural exception sites would provide and maintain a housing stock that supports sustainable, inclusive communities because the policy still requires the site to be well related to an existing settlement and its services and the affordable housing must remain available for local people. The policy also responds to the changing mix and needs of households, because the policy still requires the development to be of a size, tenure, mix and cost that is appropriate to the assessed local need. In addition, while some market housing may be required to deliver a scheme, the delivery of affordable housing on a rural exception site would increase the amount of affordable housing available and would increase the stock of smaller dwellings by virtue of the requirements set out in LHN1. As dwellings in rural areas are usually larger, the provision of affordable housing on rural exception sites would provide the opportunity to allow more young people to live locally. The policy would ensure the effective use of existing housing stock and could allow older residents to downsize and stay within villages and make available other sized properties for young people, allowing for downsizing/upsizing. Planning permission would be subject to a legal agreement to ensure that the affordable housing remains available for local people.
14. In summary, allowing a modest amount of market housing on exception sites may boost their delivery and as such, the local housing needs objectives of the Core Strategy would still be met.

Policy DHG3: Residential Internal Space Standards

Q: Is there sufficient evidence to justify the adoption of the nationally described space standard?

15. The Council has produced a Space Standards Background Paper (2018)⁴ which provides evidence to support the implementation of internal space standards. Evidence is required by the PPG to determine whether there is a local basis for setting these standards⁵.

⁴ Space Standards background paper (reference SE1).

⁵ PPG Housing: optional technical standards paragraph: 002 Reference ID 56-002-20160519

16. The background paper indicated that, generally, dwellings within the district are larger than the minima set out the NDSS, although improvements are needed to ensure developments are wholly compliant with the Standards. The Rother Local Plan Viability Assessment (2018) also assessed NDDS compliance and similarly found that overall dwelling sizes are bigger than the Standards⁶. Market housing was found to be least compliant against all elements of the NDSS when compared with affordable housing. The background paper also indicated that there is a low overall compliance with NDSS measurements in terms of the internal configuration of dwellings. However, minor amendments could be made to the internal layouts to achieve compliance without the need for large adjustments. This would improve the overall quality of new housing within the District and would ensure that development meets the needs of the occupiers, allowing for sufficient space to ensure the long term sustainability and usability of the housing stock alongside the requirements of Core Strategy Policies LHN1 and OSS4.
17. The PPG requires consideration of how the setting of the standards impacts viability and the Rother Local Plan Viability Assessment (2018) indicates that the introduction of the policy would not have an adverse impact on viability in combination with the other policy requirements/obligations⁷.
18. The introduction of the standards is based on the evidence of need and viability and will ensure that new dwellings provide adequate living accommodation. The evidence in the background paper supports the requirement to meet the NDSS and that it does not have a negative impact on viability.

⁶ Rother Local Plan Viability Assessment (Reference SH2), Paragraph 5.12 – 5.13 and appendix C

⁷ Rother Local Plan Viability Assessment (Reference SH2) Chapters 5 and 6

Policy DHG4: Accessible and Adaptable Homes

Q: Is there sufficient evidence to justify the requirement for all dwellings to meet M4(2): Category 2 – Accessible and Adaptable Dwellings?

19. The Accessible and Adaptable Housing Background Paper (September 2018)⁸ sets out the evidence which supports the policy which is required by the PPG⁹. Consideration was given as to whether it would be appropriate to apply the requirement to all new housing or a certain proportion. However, it was concluded that the evidence suggests that the introduction of the optional accessibility standard M4(2) across all housing can be justified within the District due to its existing ageing population, forecasted increases and forecasted increase in the number of people with mobility issues and limiting illnesses. Data indicates for example that by 2028, older person households will constitute over 45% of all households in the District and the proportion of the population projected to have life-limiting illnesses is over 25%. The Policy will allow people to stay in their homes for longer and makes adaptations easier to implement in the future.
20. The Rother Local Plan Viability Assessment (2018) indicates that the introduction of the policy to require all new dwellings to meet M4(2) standards would not prejudice the viability of sites, in combination with the other policy requirements/obligations. However, if it is adequately demonstrated that the standard cannot be delivered on a scheme because it is not practicable, is financially unviable, or it would be incompatible with conserving and enhancing historic character, new development may be exempt from the policy requirements.

Policy DHG6: Self Build and Custom Housebuilding

Q: Is the requirement for provision for 5-10% of the total number of dwellings on site of 20 or more dwellings to made available as serviced plots for self and custom housebuilders justified by the evidence?

21. The Self-Build and Custom Housebuilding Act 2015 places a duty on local authorities to grant planning permission for enough serviced plots of land to meet the level of demand identified through their register. As at 1 April 2018, there were 108 entries on the self-build register which provides evidence of the demand. At the end of each base period, relevant authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period. Therefore, by 30 October 2019, 49 serviced plots suitable for self and custom build need to be permissioned.

⁸ Accessible and Adaptable Housing background paper (Reference SE2)

⁹ PPG Housing: optional technical standards Paragraph: 007 Reference ID: 56-007-20150327

22. The percentage requirement of 5-10% is based on the overall demand and likely future demand. The Policy has been informed by the self-build and custom housebuilding register and by a targeted questionnaire undertaken in November 2017 which demonstrates further understanding of the demand in the District. It is considered that given the demand for self-build identified by the Register, opportunities on larger development sites should contribute towards meeting the need. There appears to be a preference for individual self-build plots within the rural areas of the district with 59% indicating this area as their preferred location. Given that there is a policy presumption against new residential development in the countryside, the Council needs to consider other ways to bring forward self-build opportunities in the rural areas. The threshold of 20 or more dwellings is required so that there will be self-build opportunities spread across the district, rather than just in the built up areas/towns where the larger housing developments (50 or more) would most likely take place.
23. The viability impact of this policy has been assessed in the Rother Local Plan Viability Assessment (2018) in combination with the other policy requirements/obligations and it has been concluded that it would be cost neutral¹⁰.

Policy DHG7: External Residential Areas

Q: Is the requirement for a minimum rear garden length of 10m justified by the evidence? Would it be effective in securing the objectives of the Core Strategy?

24. Justification for the policy is set out in the supporting text and in the Council's Background Paper (Reference SE3). Inter alia, the Background Paper details the results of an analysis of a sample of residential schemes granted planning permission by the Council in recent years. This found that the average length of a rear garden already tends to slightly exceed 10 metres, however, over a quarter of all houses within the major schemes analysed had gardens falling short (although most of these only marginally). These facts support the reasonableness of the requirement but also evidence its need: to address that a small but significant proportion of dwellings are not meeting the standard. A number of other Authorities' policy/ guidance documents were examined in the Background Paper, which were found to support an appropriate minimum garden length as being around 10-11 metres (or separation distances between the rears of houses of 20-22 metres). The benefits of this minimum distance are set out in the DaSA supporting text¹¹. The viability impact of the policy has been considered, the conclusion being that the design considerations are typical for development and considered to be covered by average build costs plus externals¹².

¹⁰ Rother Local Plan Viability Assessment (Reference SH2), Table 3.2

¹¹ DaSA Proposed Submission October 2018, Paragraphs 4.63-4.65.

¹² Rother Local Plan Viability Assessment (reference SH2), Table 3.2

25. The requirement, together with the other requirements of DaSA Policy DHG7, is an important aspect of ensuring development “*meets the needs of future occupiers, including providing appropriate amenities...*” and through supporting appropriate separation distances between dwellings, ensuring development “*does not unreasonably harm the amenities of adjoining properties*”, as required by Core Strategy Policy OSS4 (i, ii), which in turn, supports the achievement of the first Core Strategy strategic objective¹³.

Policy DHG11: Boundary Treatments

Q: Is the policy consistent with Paragraph 109 of the Framework?

26. Paragraph 109 of the NPPF (2012) requires the planning system to contribute to and enhance the natural and local environment; bullet-pointing 5 relevant measures. Overall, the policy seeks to ensure that boundary treatments positively contribute to the character and appearance of a locality, in accordance with Paragraph 109.
27. Considering the 5 specific measures, the policy is unlikely to have any significant effect on the last 2, which relate to pollution, land stability and land contamination, or on parts of the first measure (geological conservation interests and soils).
28. However, the policy will support the protection and enhancement of valued landscapes at a local level. The effect on biodiversity (bullet points 2 and 3), specifically the permeability of boundary treatments to allow access for wildlife, has been the subject of a representation. The Council’s response is set out in its Initial Responses to Representations¹⁴ (Reference RDC-DaSA-004). Given the minor nature of most relevant developments and also having regard to the extensive permitted development rights for boundary treatments, it is not considered the policy will have any significant effect on ecosystem services (i.e. the benefits people obtain from ecosystems such as food, water, recreation), biodiversity or ecological networks. Notwithstanding this, the Local Plan as a whole supports these matters, including through DaSA Policy DEN4, with which all development are expected to comply.

¹³ See Table 1, page 25 of the Core Strategy.

¹⁴ Pages 25-26

Economy

Policy DEC3: Existing Employment Sites and Premises

Q: Does the Policy effectively complement Policy DCO1 and does it provide sufficient clarity to guide development decisions?

Q: Is the Policy justified in the light of the employment land review and allocation of sites in this Plan?

29. Policy DEC3 is proposed to replace Policy EC3 of the Core Strategy. Policies DEC3 and DCO1 are considered to be complementary. DCO1 sets out the requirements in order to demonstrate that a site of social or economic value is genuinely redundant. This includes (but is not limited to) community facilities, a shop or public house.
30. DEC3 provides clear support of economic growth in Rother which is a key part of the Plan's Strategy. The Policy requires employment sites to be retained, unless there is no reasonable prospect of its continued use for employment, supports extensions of existing sites and also allows for some enabling development to make employment use viable. Part (iv) of the Policy is clear with regard to the sequential approach that should be taken to promote the retention of existing employment sites.
31. The Employment Sites Review Background Paper (November 2016)¹⁵ assesses employment sites that have been allocated, are permissioned, are vacant or are existing sites. The Background Paper concludes that across the District, the loss of existing business sites and floorspace to other uses should continue to be resisted, in principle, unless there is clear evidence of a lack of realistic need or viability. Therefore, it is considered that the Policy is justified and necessary.

¹⁵ Employment Sites Review Background Paper (Reference SF1)

Environment

Policy DEN2: The High Weald Area of Outstanding Natural Beauty

Q: Is the policy sufficiently clear about what is meant by ‘small-scale’ and by ‘major’ development?

32. In this context, the reference to ‘small scale’ is taken as the alternative to ‘major’. The 2012 NPPF explains that planning permission should be refused for major developments in designated areas (including AONBs) except in exceptional circumstances. The PPG adds that whether a proposed development in these designated areas should be treated as a major development will be a matter for the relevant decision taker, taking into account the proposal in question and the local context (Paragraph: 005 Reference ID: 8-005-20140306).
33. In terms of ‘major’ development, footnote 28 of the DaSA explains that this will be defined taking into account the nature, scale and setting of a proposal and whether it could have a significant adverse impact on the purposes for which the AONB was designated. Footnote 55 of the NPPF 2019 explains that this is the approach that should be taken for development proposed in protected areas. This is also consistent with case law established in the context of the 2012 NPPF. This is not at odds with the NPPF 2012 and further complements the approach.
34. Therefore, the approach in the DaSA follows that of the NPPF and PPG and as such, is considered to be sufficiently clear.

Policy DEN3: Strategic Gaps

Q: Are the five strategic gaps and their extent justified with particular regard to Policy HF1 and RY1 of the Core Strategy? Should they include areas that are already developed?

35. The principle of ‘strategic gaps’ was established through Core Strategy Policies HF1 and RY1. However, the boundaries of these gaps were not defined. The need to review the extent of the gaps is appropriate within the DaSA, as these were previously defined within the 2006 Local Plan (Policy DS5) and will be superseded by this Policy.
36. The Strategic Gaps were reviewed in the Strategic Gaps Background Paper (March 2016)¹⁶ and the DaSA has proposed amendments to some of these gaps following this review. Justification for the amendments to the gaps i.e. removal or extensions, is set out in the Background Paper.

¹⁶ Strategic Gap Background Paper (Reference SG1)

37. The effect of existing settlement distribution within the gaps has been considered in the Background Paper. Where there is existing development within the gaps, these sites are particularly vulnerable to expansion. As such, the Policy requires any new/expanded development proposals within the gaps to be carefully considered in terms of any impact upon the objectives of the gap. It is appropriate to carefully consider the impact development may have on the open character of the strategic gaps which is important in maintaining the perception of the gaps between the built up areas.
38. Part (iii) of Policy HF1 seeks to maintain strategic countryside gaps between Hastings/St Leonards and Bexhill, Battle, Crowhurst and Fairlight. The creation of the new link road means that the area surrounding is vulnerable to development pressures. The extension proposed to this strategic gap will protect the open landscape between Bexhill and Hastings and the surrounding areas. An area of the gap was removed between Crowhurst and Battle as it was considered to be more closely associated with the open High Weald countryside to the south and west of Battle. As this area is countryside and outside the development boundary, it would be protected by the relevant countryside and AONB policies.
39. Part (xii) of Policy RY1 seeks to maintain a strategic gap between Rock Channel and Rye Harbour Road. The Background Paper states that the poorly defined boundary to the industrial area could lead to pressure for further industrial expansion into the eastern end of the gap. The proposed extension of the gap would therefore allow for this area to be protected from future development pressures and ensure retention of the open character of the landscape.

Implementation

Policy DIM2: Development Boundaries

Q: Are the proposed changes to the development boundaries justified by the evidence?

Q: Will the proposed changes to the development boundaries be effective in ensuring that sufficient housing is provided for?

40. The development boundary changes take one of two forms: (i) extensions to incorporate additional land (often, land subject to a new allocation) and (ii) exclusions to remove land no longer considered appropriate for more intensive development (e.g. for environmental reasons such as flood risk).

41. Justification for the development boundaries in those settlements subject to DaSA site allocations is contained within the relevant settlement section of the DaSA Proposed Submission¹⁷. Justification for changes to the development boundaries of other settlements (not subject to DaSA site allocations or a Neighbourhood Plan) is contained within the DaSA Local Plan Options and Preferred Options (reference SA5)¹⁸.
42. At paragraph 8.13 of the DaSA it states that “the net capacity of “new” sites is 1,381 homes.” This is a typographical error and the correct figure is 1,316. Nevertheless, the allocation of land sufficient for 1,316 dwellings at new sites has been achieved together with the changes to development boundaries. The overall Core Strategy requirements will be met by the DaSA allocations, together with a level of “windfall” and rural exception sites (allowance set out in the Core Strategy), as well as sites allocated within Neighbourhood Plans. Any reductions in the existing development boundaries are of a minor nature (e.g. at Rye Harbour¹⁹) and/ or affect land subject to existing, often environmental, constraints (e.g. flood risk at Winchelsea Beach) which would not have been anticipated to accommodate any significant level of development in any event as they are not considered sustainable settlements. It is therefore considered that the proposed changes to the development boundaries will be effective in ensuring that sufficient housing is provided for.

Proposed Modification

43. Amend the last sentence of paragraph 8.13 as follows:

Hence, the net capacity of “new” sites is 1,316 ~~1,381~~ homes.

¹⁷ E.g. for Bexhill: paragraphs 9.15-20; for Hastings Fringes: paragraphs 10.9-10; for Beckley Four Oaks: paragraph 11.8 of the DaSA Proposed Submission October 2018; etc.

¹⁸ Part C, Chapter 16

¹⁹ See Figure 113 of the DaSA Local Plan Options and Preferred Options (Reference SA5)