



The Planning Inspectorate

Report to Rother District Council

by Mike Worden

an Inspector appointed by the Secretary of State

Date: 5 November 2019

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Rother Development and Site Allocations Local Plan

The Plan was submitted for examination on 18 January 2019

The examination hearings were held between 8 May and 16 May 2019

File Ref: PINS/U1430/429/6

Abbreviations used in this report

AA	Appropriate Assessment
AONB	Area of Outstanding Natural Beauty
CS	Core Strategy
DaSA	The submitted Rother Development and Site Allocations Local Plan
DtC	Duty to Co-operate
HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
MHCLG	Ministry of Housing, Communities and Local Government
MM	Main Modification
NBAR	North Bexhill Access Road
NDSS	Technical Housing Standards – nationally described space standards
OSSRS	Open Space, Sport and Recreation Study
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
RDLP	Rother District Local Plan 2006
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCI	Statement of Community Involvement
SPA	Special Protection Area
SPD	Supplementary Planning Document
SuDS	Sustainable Urban Drainage System
WMS	Written Ministerial Statement
2012 NPPF	The 2012 version of the National Planning Policy Framework
2019 Framework	The 2019 version of the National Planning Policy Framework

Non-Technical Summary

This report concludes that the Rother Development and Site Allocations Local Plan provides an appropriate basis for the planning of Rother District, provided that a number of main modifications [MMs] are made to it. Rother District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at the examination hearings. Following the hearings, the Council prepared schedules of the proposed modifications and carried out a sustainability appraisal of them. The MMs were subject to public consultation over a six-week period. A Habitats Regulation Assessment (HRA) addendum was also produced. I have recommended the inclusion of the MMs in the Plan after considering all the representations made in response to consultation on them, the sustainability appraisal addendum and the HRA report addendum.

The Main Modifications can be summarised as follows:

- Remove the site for allotments in Westfield (Policy WES4) from the plan
- Amend the wording of Policy DEN3 so that it relates to the objectives of the policy and provides clarification of how development proposals in the Strategic Gaps will be assessed.
- Amend the wording of Policies BEX3, BEX3a and BEX 3b so that they are clear on the expectations regarding the provision of recreational open space.
- Strengthen the requirements for sustainable transport measures in respect of Policy BEX10 (Northeye)
- Provide clarity on which policies in the Core Strategy would be superseded by those in the DaSA.
- Amend the wording of a number of policies to make it clear what is required of development proposals in respect of assessing impact on nature conservation sites.
- Adjustment to boundary of Policy FAC2 (Waites Lane, Fairlight Cove) to enable suitable access to be gained to the site and amend requirement in the policy in respect of a new doctors surgery.
- Amend the wording of a number of other policies to ensure that they are justified, effective and consistent with national policy.

Introduction

1. This report contains my assessment of the Rother Development and Site Allocations Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The revised National Planning Policy Framework (NPPF) was published in July 2018 and further revised in February 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The DaSA, submitted in January 2019 is the basis for my examination. It is the same document that was published for consultation in October 2018.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearings, are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. They were also subject to HRA. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

Policies Map

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Council's document: Proposed Update to the Policies Map Oct 2018.
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it.

However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map.

8. These further changes to the policies map were published for consultation alongside the MMs in Schedule of Main Modifications and changes to Policies Maps July 2019 (Doc RDC-DaSA-M1).
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in Doc RDC-DaSA-M1 and the further changes published alongside the MMs.

Assessment of Duty to Co-operate

10. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation. Consideration of whether the Council has complied with this duty is to be assessed in the context of this being a site allocation and development management policies plan.
11. The Council has been pro-active in this regard. The Council has worked with East Sussex County Council in the preparation of the DaSA. It has also worked with other Councils and prescribed bodies particularly over policies relating to nature conservation and strategic infrastructure.
12. The district wraps around the administrative area of the Borough of Hastings and consequently there is a considerable relationship between the two areas. For example, part of the fringes of Hastings itself lies within the Plan area and the Plan defines Strategic Gaps between the settlements in the two authority areas. Furthermore the economies and housing markets of the two districts are closely linked. The two Councils have a long history of working together on cross-boundary matters. These are set out in the Statement of Common Ground dated 16 May 2019 (Doc RDC-DaSA-020). The two Councils shared approach to future prosperity in the Hastings and Bexhill area is set out in both the Rother Core Strategy and the Hastings Local Plan Strategy.
13. In more general terms the Council's actions in meeting its duty to co-operate are set out in both the submission and the proposed submission Consultation Statements (Docs C5 and C14).
14. I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Soundness

Main Issues

15. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified five main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Whether the plan gives effect to and is consistent with the Core Strategy.

16. The Rother Local Plan Core Strategy (the CS) was adopted on 29 September 2014. It sets out the Council's vision and objectives which will guide the future pattern and form of development in Rother over the period to 2028. It provides broad guidance on the scale and distribution of development and the provisions for supporting infrastructure both for the district as a whole and for its towns and rural areas.
17. The CS sets out an overall spatial strategy and then geographical strategic objectives for Bexhill, Hastings Fringes, Rye and Rye Harbour, Battle and the Rural Areas, and themes based strategic objectives for Sustainable Resource Management, Communities, Local Housing Needs, Economy, Environment and Transport and Accessibility. The DaSA picks up these objectives and its policies and allocations relate to them.
18. Policy OSS1 of the CS sets out the overall spatial development strategy and identifies requirements for the number of additional homes and business floorspace for the period 2011-2028. The housing development target for the District as a whole is for at least 5,700 new homes to be built over the plan period. The DaSA makes provision for this number of dwellings to be built in the plan period through allocations, exception site and small site windfall allowances, expectations from neighbourhood plan areas and from completions and commitments to date. Similarly the DaSA makes provision for employment floorspace in accordance with the CS.
19. The DaSA is consistent with the overall spatial strategy for the district set out in Policy OSS1 of the CS. The distribution of sites reflects the focus of development within Bexhill and then is consistent with the pattern and scale of development for the other towns and villages of the district set out in the CS. The distribution of sites has taken account of the environmental and landscape assets and constraints across the district, including the High Weald Area of Outstanding Natural Beauty (AONB). It has also taken account of existing service and infrastructure provision within settlements.
20. In accordance with Policy LHN5 of the CS, provision should be made for five permanent pitches for Gypsies and Travellers between 2011 and 2016 with a further six permanent pitches between 2016 and 2028. Taking account of completions to date, the DaSA allocates the outstanding requirement for six pitches across two sites.

21. Policy LHN6 of the CS sets out criteria for how applications for Gypsies, Travellers and Travelling Showpeople will be considered. The CS does not require a specific allocation for a site for Travelling Showpeople.
22. For the reasons set out above, I conclude that the DaSA gives effect to, and is consistent with, the CS.

Issue 2 – Whether the DaSA is effective in the preparation of neighbourhood plans in the district.

23. Rother District has a number of neighbourhood plans which have either been made, or which are in the process of being prepared. The made Neighbourhood Plans are Sedlescombe, Salehurst and Robertsbridge, Rye, Ticehurst and Crowhurst. Neighbourhood plans for Burwash, Battle, Etchingam and Hurst Green are in preparation. The DaSA does not allocate sites for development within any of these made or emerging Neighbourhood Plans. Those neighbourhood plans are positively addressing the specific housing requirements. Elsewhere, the DaSA is clear on the balance of allocations to be made in those areas not covered by a designated neighbourhood plan area at the point the DaSA was submitted for examination.
24. The DaSA clearly identifies the strategic policies within it which neighbourhood plans will have to be compliant with. The generic development management policies of the DaSA apply across the whole district or to specific parts of the district in the case of some policies. It is open to neighbourhood plans to set out more detailed policies if the forums consider it necessary.
25. I consider that the approach set out in the DaSA accords with the requirements of the CS in respect of neighbourhood plans, and provides clarity for the neighbourhood forums preparing plans. The adoption of the DaSA would mean that two policies of made neighbourhood plans would be superseded by two policies in the DaSA. These are clearly set out in **MM32** which is necessary for effectiveness.
26. I consider that there is no duplication of planning processes for non-strategic policy preparation and the provisions of paragraph 185 of the NPPF 2012 are met.
27. Overall, subject to **MM32**, I consider that the DaSA is effective in the preparation of neighbourhood plans in the district.

Issue 3 – Are the development management policies sound, compliant with the Core Strategy, national policy and evidence?

Water Efficiency

28. *Planning Practice Guidance - Housing: optional technical standards* indicates that local planning authorities have the option to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of water, amongst other things. It states that where

there is clear local need, local plans can set out policies requiring new dwellings to meet the tighter Building Regulation optional requirement of 110 litres/person/day.

29. The Council's Water Efficiency Background Paper (Doc SC1) highlights that the district lies within a water-stressed area as defined by the Environment Agency and that there are restrictions on water extraction locally. Policy SRM2 of the CS requires effective management of water resources. Doc SC1 also indicates that the use of flow restricting devices would result in negligible additional costs. Policy DRM1 of the DaSA is justified based on the evidence.

Renewable and low carbon energy

30. Policy DRM3 sets out the Council's approach to seeking renewable and low carbon energy technologies within new developments. It replaces Policy SRM1 (i) of the CS, the requirements of which have become outdated particularly as it seeks combined heat and power schemes on large sites which are now considered unviable. Policy DRM3 reflects prevailing expectations regarding energy efficiency and is justified.

Retention of Sites of Social or Economic Value

31. To be effective it is necessary to amend Policy DCO1 and supporting text to ensure that it does not apply to town or district centres for reasons of consistency and other plan policies. This is done through **MM1**. In addition, for effectiveness, clarification is necessary as to how the policy relates to Policy CO1 criterion (iii)(a) of the CS which sets out the approach to the loss of community sites or premises. This should to be set out in the supporting text to the Policy, through **MM2**.

Affordable Housing

32. Policy DHG1 replaces Policy LHN2 of the CS and brings the affordable housing thresholds into line with those set out in the 2019 Framework. In particular it clarifies the position in respect of the rural areas, both within and outside of the High Weald AONB. Whilst the DaSA is being examined in relation to the 2012 NPPF, I consider that it is justified to align the thresholds to the 2019 Framework in this case as it would avoid confusion and uncertainty. The Council's Local Development Scheme (LDS) has been revised accordingly. Policy DHG1 is therefore justified.
33. Policy DHG2 replaces Policy LHN3 of the CS and is in response to the Council reviewing the operation of that policy. That review set out in the Cabinet report and minutes of July 2018 (Doc PS13) concluded that in some cases, a degree of open market housing might enable a scheme for affordable housing on a rural exception site to be viable, boosting both housing supply in the rural areas and the supply of affordable housing. The criteria of Policy LHN3 of the CS would be replicated within Policy DHG2 other than the addition of a paragraph setting out an option for a modest amount of open market housing being acceptable if viability evidence demonstrated that it was the minimum necessary for the delivery of the scheme. In the light of the evidence, and the existing and additional safeguards set out in the policy, I consider that the policy is justified, although clarification is required as to the definition of

rural areas within Rother to which the policy will apply. **MM3** would provide the necessary clarification and I recommend it for effectiveness.

Access to Housing/Housing Standards

34. Planning Practice Guidance Housing: optional technical standards, indicates that where local planning authorities wish to require an internal space standard, they should do so in their local plan by reference to the *Technical Housing Standards - nationally described space standard* (NDSS). The PPG states that in establishing a need for internal space standards, local planning authorities should take account of need, viability and timing. Policy DHG3 sets out that the Council would adopt those standards through the DaSA.
35. The Council has produced a Space Standards Background Paper (Doc SE1). The Council's evidence set out in Doc SE1 and in its representations, indicate that the whilst the gross internal area across a range of those new build properties tested is generally good when compared to NDSS, a large number of properties would fail to comply with the internal room requirements within NDSS, although in many cases not by far. In that sense minor amendments to typical properties being built in the district would achieve compliance, thereby improving the quality of new housing in the district.
36. It is possible that housebuilders would reduce the number of rooms, including bedrooms in their properties in order to comply and the introduction of the NDSS might mean that certain 'off the peg' products would not comply. Nevertheless, the evidence is that many of the rooms within the sampled properties would not require large adjustments to comply, and that the requirement would not have an adverse impact on viability. I therefore consider that Policy DHG3 is justified and consistent with national policy.
37. Local planning authorities also have the option to set additional technical requirements exceeding the minimum standards set by the Building Regulations in respect of access, amongst other things. It also states that evidence would need to be gathered to determine where there is need for additional standards in their area and justify appropriate policies in their Local Plans. Policy DHG4 sets out that the Council would adopt the Optional Buildings Regulations for Accessible and Adaptable Homes through the DaSA.
38. The Council has produced an Accessible and Adaptable Housing Background Paper (Doc SE2). It highlights the high proportion of older people living in the district and the projected growth in elderly persons to 2028. It also shows that the district has higher than the national average figures for persons with a long term limiting illness or health issue and this is predicted to increase. Not all will require M4 (2) Category 2 housing and some may require specialist accommodation. Nevertheless, the implementation of the policy would be likely to enable people to stay in their homes for longer.
39. The policy includes provision for the requirement to be set aside where it can be demonstrated that it would be not practicable or financially viable. Even though the viability evidence submitted by the Council (Doc SH2) suggests that there would be only limited impact on viability, the provision is nonetheless necessary. The policy is justified and consistent with national policy.

Self-Build and Custom Housebuilding

40. Policy DHG6 seeks to promote self-build and custom housebuilding. As at 1 April 2018 there were 108 individuals who had registered their interest in self and custom housebuilding register. According to Council's Housing Land Supply document (Doc SI 1), this stood at 136 on 1 October 2018.
41. The Council's note of 24 May 2019 (Doc RDC-DaSA-011), shows that there are 17 allocated sites to which the policy would apply. This would deliver between 65 and 126 self-build units if fully taken up, on top of those which might come forward through small windfall sites in any case. However some of those on the register would only require a certain plot type or geographical location and the evidence from the Council indicates that the majority of those registered would prefer a location in the eastern area of the district. Nevertheless, I consider that the policy is justified given the self-build and custom housebuilding interest in the district overall, and that the thresholds and other provisions set out are appropriate given the evidence.

External Residential Areas

42. The Council's Residential Garden Sizes Background Paper (Doc SE3) indicates that across 5 major schemes granted planning permission 2013-2017, the average rear garden length exceeded 10m, but that in around a quarter of cases, the gardens fell short of 10m. Amongst other things, Policy DHG7 seeks to ensure that there would be a rear garden of 10m in length in new dwellings. The Council considers that this would accord with Policy OSS4 of the CS and with the position in the adjoining Borough of Hastings where the adopted Local Plan requires gardens of such length.
43. The supporting text to the policy makes it clear that certain circumstances might exist which means that gardens of less than 10m in length could be acceptable and the policy itself provides for such a position. The policy is therefore justified.

Boundary Treatments, Accesses and Drives

44. **MM4** is necessary for the effectiveness of Policy DHG12 to make it clear what is required in terms of permeability of materials.

Holiday Sites

45. **MM5** is necessary for the effectiveness of Policy DEC2 in order that there would be consistent approach in respect of how the policy and Policy DEN4 would operate.

Biodiversity and Green Space

46. **MM8** is necessary to ensure consistency with Planning Practice Guidance on the Natural Environment in terms of how Policy DEN4 would operate. This change is necessary for the effectiveness of the policy.

Strategic Gaps

47. The second paragraph of Policy DEN3 states that development will only be permitted in exceptional circumstances. However the examples of development set out in paragraph 6.15 of the supporting text are not exceptional but rather typical forms of development expected in rural areas. Whilst the term 'exceptional circumstances' was referenced in the corresponding policy in the Rother District Local Plan 2006 which Policy DEN3 is to replace, the adoption of that plan pre-dates the publication of the NPPF. I consider that Policy DEN3 is not consistent with national policy and to be effective it also needs to be clearer as to what development would be allowed within the Strategic Gaps. **MM6** would address both of these points and focus the policy and its application to relate to the three strategic objectives behind it. This change is necessary for soundness.
48. The boundary of the Strategic Gap at Fairlight should be amended through **MM7** to be consistent with its definition in paragraph 6.21 of the supporting text, that it includes the area known as 'The Close'. This change is necessary for the effectiveness of the policy. There is also a need for a consequential change to the Policies Map as a result. I do not consider that there should be any other change to the boundaries of the Strategic Gaps for reasons of soundness.

Conclusion

49. For the reasons set out above and subject to the main modifications, the development management policies are sound, compliant with the CS, national policy and the evidence.

Issue 4 –Has the overall site selection process been based upon a sound and robust methodology within the context of the Core Strategy and are the proposed site allocations soundly based?

General

50. The selection process has been based around a call for sites exercise. Each site was appraised against 16 objectives. The site selection process is consistent between the stages of plan preparation and the reasons for the selection of some sites, and the non-selection of others is set out in the Sustainability Appraisal and within the Options and Preferred Options DaSA Local Plan.
51. At the examination, particularly in relation to the site selection process within the villages, concerns were expressed from some representors about the robustness of the methodology and why some sites were selected and others were not. In some cases and particularly in some villages, the selection process came down to reasonably narrow margins between sites selected and those not. However, I am satisfied that the process has been based upon a sound and robust methodology and accords with the spatial strategy set out in the CS. This includes the provisions of CS Policy RA1 which sets out how the needs of villages will be addressed and its accompanying table Figure 12 which sets out the expected provision within each village.

Bexhill

Cumulative traffic impact on the strategic route network

52. To support the DaSA, the Council commissioned the Bexhill Highways Capacity Assessment Report (Doc SJ7) to assess the highway capacity to accommodate the development proposed. It related to the whole district. The report found that the network would operate within capacity overall but certain junctions on the A259 and A269 would be close to or over capacity by 2028 and that the proposed allocations would be likely to exacerbate this position.
53. The scale and distribution of development proposed in Bexhill in the DaSA accords with the CS. Since the adoption of the CS, both the Bexhill-Hastings Link Road and the North Bexhill Access Road (NBAR) have been completed and are operational. Nevertheless, Highways England raised concerns in its submissions about cumulative impact on the strategic route network of the proposed allocations BEX6, BEX9, BEX10 and BEX11.
54. The Council, along with East Sussex County Council commissioned further modelling work during the course of the examination. Although the final report has not been completed for this examination, Highways England confirmed to the Council on 16 May 2019 that it considers the DaSA to be sound on the basis of highway mitigation being provided at three junctions: the A259 Little Common Roundabout; the A259/A269 London Road signals and the A259 Glyne Gap roundabout. During the examination I observed the operation of all three junctions at peak time.
55. Highways England consider that the works to the Little Common Roundabout which would involve carriageway widening would be in the region of £250,000-£300,000. In its response on 24 May 2019 (RDC-DaSA-028) to my question, the Council sets out more detail in relation to the estimated costs of the necessary works at the other junctions. In total the costs for the works to the three junctions are estimated to be £650,000-£900,000. The Infrastructure Delivery Plan (Doc SH1) also refers to the works at two of these junctions as being needed to support the level of development proposed in the DaSA.
56. The junction improvement works are expected to be funded through contributions from the developments secured through planning obligations and potentially from external funding sources. Doc RDC-DaSA-028 sets out some additional viability assessments to supplement the earlier submitted viability report (Doc SH2). The viability assessments consider the worst case scenario of £900,000 cost for the mitigation works and relates the additional cost to the site typologies in Doc SH2. It indicates that the additional costs would not impact on the deliverability of sites in Bexhill. On the basis of the evidence submitted, I am satisfied that the costs of the works would not impact on viability and deliverability of the allocated sites.
57. The approach to requiring development proposals to be supported by transport assessments where appropriate and if necessary make financial contributions to improving transport infrastructure, and seeking external funding to support such improvements, is set out in Policy TR3 of the Core

Strategy. It is not necessary therefore to amend the DaSA in this regard for soundness reasons.

58. On the basis of the evidence, I am satisfied that the cumulative traffic impacts of the proposed allocations in Bexhill on the highway network would not be severe providing the works identified to the highway network are completed. Furthermore, in light of the evidence, I consider that the works required would not harm the viability or deliverability of the allocations. The scale and distribution of proposed development in Bexhill is consistent with the Core Strategy and it will be for planning proposals on each site to meet the requirements of Policy TR3 and other policies of the CS and the DaSA.

Policy BEX1 Land at Levetts Wood and Oaktree Farm, Sidley, Bexhill

59. The boundary of the allocation sits entirely on the Bexhill side of the North Bexhill Access Road (NBAR). Whilst this is a slightly different boundary to the extant planning permission which extends across the NBAR to include a waste water treatment works and pond, I do not consider that the allocation needs to do the same, or to extend to the former proposed line of the road. I also consider that it is entirely appropriate for the requirement in criterion (i) of the Policy for it to accord with a masterplan. Such a masterplan will assist in the detailed planning of the development of the site including ensuring the appropriate areas and nature of landscaping buffers which are shown indicatively on Figure 19 of Policy BEX1, and the splits between different uses. I consider that a masterplan would not constrain development potential, but would assist in the detailed planning process as envisaged in the North East Bexhill Supplementary Planning Document 2009 (PS33).
60. On the basis of the evidence submitted, including the Bexhill Employment figures submitted by the Council (RDC-DaSA-025) I am satisfied that the floorspace figure in criterion (ii) of the policy does not need to be increased in order to meet the Core Strategy employment floorspace development target for Bexhill of at least 60,000 sqm.

Policy BEX3 Land at North Bexhill/Policy BEX3a Kiteye Farm and adjoining land/Policy BEX3b Land west of Watermill Lane/Policy BEX3c Land east of Watermill Lane

61. Land at North Bexhill is identified in the Core Strategy as a broad location for future development in Bexhill. The North Bexhill Access Road (NBAR), on which the development was contingent, has now been completed. There are three separate areas of land allocated within Policy BEX3, which in total would likely yield around 530 dwellings. This is a major element of future housing provision in Bexhill.
62. On the basis of the evidence submitted, I am satisfied that the site as a whole is viable and can be delivered within the plan period.
63. Policy BEX3a includes a requirement, at criterion (ii) that an area of open space be provided and that this should include provision for playing fields of at least 2.54 hectares. Given the land form on this particular part of the site, it is not clear to the Council or the land owner at this stage whether formal

playing fields could indeed be laid out in that area in a satisfactory and practicable manner. Having regard to the Council's *Open Space, Sport and Recreation Study 2007* (the OSSRS), I consider that it is necessary, for soundness, to alter the requirement for playing pitches to the wider term of outdoor sports facilities used in the OSSRS. This change would enable the outdoor sports facilities to be provided but not necessarily comprising of all formal playing pitch provision. These main modifications are **MM9**, **MM10** and **MM11** and I recommend them for plan effectiveness.

64. A further modification to Policy BEX3b criterion (iii) b, is necessary to ensure consistency between the BEX3 policies in respect of traffic management requirements. This is **MM12**.
65. Policy BEX3c includes a requirement for a small site of up to five pitches for the permanent residential use of Gypsies and Travellers to be located on the north western corner of the allocation. This site would be served directly off Watermill Lane, close to the point where it has been severed as a result of the construction of the NBAR.
66. The proposed access to the Gypsy and Traveller site lies between Preston House and the cycleway/footpath which leads up to the pedestrian/cycle crossing on the NBAR. The proposed access point would be on land which slopes up from Watermill Lane to the site. Access to the site from Watermill Lane would require a sharp right hand turn. The highway authority does not object. The Council submitted an access plan (Doc RDC-DaSA-017) which shows a swept path analysis for a vehicle and caravan and a re-profiling of the slope. Having regard to this plan, the plan and evidence submitted by representors and my own observations on the site, I consider that it would be feasible to secure an appropriate access to the site from Watermill Lane.
67. The proposed Gypsy and Traveller site is reasonably well located in terms of access to services, can be brought forward independently of the other land at North Bexhill, and is consistent with the requirements of Policy LHN5 of the CS. It is also consistent with the Planning Policy for Traveller Sites (PPTS).

Policy BEX4 Land at Former High School Site and Drill Hall, Down Road, Bexhill

68. The allocation relates to the mixed use redevelopment of an urban site. **MM13** is necessary to require provision for additional sewerage infrastructure to be secured as part of any proposal on the site.

Policy BEX 6 Land adjacent to 276 Turkey Road, Bexhill/Policy BEX7 Land at Moleynes Mead, Fryatts Way, Bexhill

69. In order to ensure that the proposals on both sites can be delivered without harm to the Pevensey Levels Special Area of Conservation/Ramsar Site, and that the policies are consistent with Policy DEN5, **MM14** and **MM15** are required. These modifications will add additional clarification of requirements in relation to Appropriate Assessment, under the Habitats Regulations.

Policy BEX9 Land off Spindlewood Drive, Bexhill

70. This allocation is for a site of some 160 dwellings. Highway access would be taken from Spindlewood Drive and from Barnhorn Road. The policy sets out a number of criteria which development proposals would have to meet.
71. At the examination hearings, there was considerable concern from local residents in relation to this allocation, in particular matters relating to traffic and SuDS. I have already addressed the strategic highways issues arising from the cumulative Bexhill allocations and have no evidence that there are specific highway safety issues in principle, related to the development of the site itself and the highway authority is supportive.
72. The allocation lies within the Pevensey Levels hydrological catchment area. Criterion (xi) of Policy BEX9 sets out requirements for proposals on the site in relation to SuDS and the need for the Habitats Regulations to be complied with to ensure no harm to the integrity of the Pevensey Levels Special Area of Conservation/Ramsar site. Natural England support this approach. The policy is sound in relation to these matters.

Policy BEX10 Land at Northeye (Former UAE Technical Training Project), Bexhill.

73. The allocation is for around 140 dwellings and new open space recreational facilities on a partly brownfield, partly greenfield site to the west of Bexhill. The former training centre and prison site lies adjacent to around 30-40 existing dwellings, but is otherwise quite separated from the suburban areas of Bexhill. The Council states in the DaSA that new development in such a location would normally be resisted, but is allocating the site given it is not required for its former use, and that subject to design controls, a high quality residential scheme could be taken forward.
74. However, one of the core principles of the NPPF 2012 indicates that development should be focussed in locations which are or can be made sustainable, making the fullest possible use of public transport, walking and cycling. I consider that in order to accord with this principle, and to accord with Policy TR3 of the Core Strategy, **MM16** is necessary to require a travel plan as part of any proposals for the redevelopment of the site and that specifically the use of travel measures other than the private car are to be promoted. **MM16** also adds a series of off-site measures which would be required as part of the travel plan process. **MM16** also clarifies that contributions towards improving local bus services to assist access to the site are also to be required.

Policy BEX11 Land at Sidley Sport and Social Club, Bexhill

75. The former sports and social club site is allocated in the DaSA for playing pitches and other open space, changing accommodation and a community hub. It was registered as an Asset of Community Value in 2018 which means that there is a period for community groups to make a bid to purchase it and preserve its social value. This is confirmed in the Council's position statement (RDC DaSA-031-BEX11).
76. At the hearing sessions the Council confirmed that it is working with a community group, the Heart of Sidley, which is interested in taking over the site, and that notification of the proposed disposal of the site was received by

the Council, from the owner of the site in February 2019. The Council submitted this letter to the examination (RDC DaSA 032 BEX11).

77. Given the above position, I consider that there is a reasonable prospect of the site being delivered for the purpose set out in Policy BEX11. The policy is justified and effective, and is sound.

Policy BEX14 Land south-east of Beeching Road, Bexhill

78. This Council owned site is allocated for retail development. Criterion (xi) of the Policy requires an 8 metre exclusion zone from the main river culvert which passes through the site to ensure access to the existing outfall. However there are two culverts on the site and for clarity in making the policy effective, **MM17** is required to avoid doubt that there should be an 8m exclusion zone either side of the main river culverts.

Policy BEX17 Little Common and Sidley District Centres

79. The policy seeks to protect the vitality and function of two district centres. In Sidley, a deprived community, there is a concern, supported by evidence, that further concentrations of hot food takeaways would be harmful to the life of the centre and the health and well being of the community. **MM18** is necessary to ensure the effectiveness of the policy in making it clear that further concentrations of such uses within the centre will not be supported rather than just resisted.

Hastings Fringes

Policy HAS2 Land at Michael Tyler Furniture, Woodlands Way, Hastings

80. There is a need to add a requirement to ensure that proposals do not have an adverse impact on watercourses which flow into the adjacent Ancient Woodland. **MM19** is therefore necessary for effectiveness to make the Policy sound.
81. *Policy HAS3 Land north of A265, Ivyhouse Lane, Hastings*
82. **MM20** is necessary for effectiveness to make it clear that the site lies within the High Weald AONB.

Villages

Beckley Four Oaks

83. The DaSA proposes to allocate two sites in the village. A large number of sites were appraised during the early stages of the preparation of the DaSA. I am satisfied that the two sites selected have been arrived at through a sound methodology and are both deliverable within the plan period. Policy BEC1 is a brownfield site and a former engineering works. The building has been vacant since 2011 and evidence of marketing and consideration of alternative uses was submitted by the Council (RDC-DaSA-034 and RDC-DaSA-035). Policy BEC2 is a small site which would form an extension to an existing residential cul-de-sac. I consider both sites have been selected on a sound basis and are deliverable.

Broad Oak

84. **MM21** is necessary for effectiveness to add a requirement within Policy BRO2 for a connection to the local sewerage system to be made, and to amend the proposed development area shown on Figure 45 so as to accord with the recent planning approval on the site.

Camber

85. The proposed two allocations accord with the adopted *Camber Village Supplementary Planning Document* which seeks to provide guidance for redevelopment of the village. **MM22** and **MM23** are necessary however to clarify that development proposals should not have an adverse effect on the adjacent Natura 2000 sites.

Catsfield

86. **MM24** is necessary to ensure consistency of Policy CAT1 with Policy DEN5 in respect of requirements for drainage proposals in relation to potential impact on the Pevensey Levels SAC. This is necessary for the effectiveness of the policy.

Fairlight Cove

87. Policy FAC2, Land east of Waites Lane is proposed to be accessed from the north east corner of the site via Waites Lane. During the examination hearing sessions, the Council and the highway authority considered that the access route into the site would need to be widened from that shown in Figure 50 in the DaSA. This would involve extending the allocation slightly on to the adjacent field in order that sufficient width could be gained to enable appropriate landscaping and to ensure that the access road junction on to Waites Lane was orientated at more of a 90 degree angle. The Council has provided an amended plan showing the additional area and the revised access route into the site. The highway authority is satisfied that this access is suitable. Based upon the evidence and my observations, I concur with this view. **MM26** is therefore necessary to ensure that a suitable access is provided to the site to enable its delivery.
88. The Council's Rother Local Plan Viability Assessment (Doc SH2) sets out and tests a number of typologies and the site falls within typology 10, which is a 40 unit scheme on greenfield land in the Rural East. This approach accords with Planning Practice Guidance on Viability which states that plan makers can use site typologies to determine viability at the plan making stage.
89. The requirement for 40% affordable housing is consistent with Policy DHG1. The provisions of that policy relating to viability also would apply to this site, such that if the affordable housing requirement would render the development unviable, the level of affordable housing required could be reduced. In that regard there is no need for each individual site allocation policy to have the same provision set out within them.
90. The policy requires that at least 50% of the dwellings should comprise appropriately designed age restricted housing for older people. The Council's position statement of 20 May 2016 (RDC-DASA-036) identifies that there is a

high level of housing need in the Rye and Rye Rural Cluster, which includes Fairlight. 36% of live applications on the housing register in this cluster are from people aged over 60 who require alternative forms of housing. I consider that it reasonable for the plan to seek to provide for the needs of such people and do not doubt that the site is suitable in location terms given it is well connected to the village and is very close to the village hall and post office.

91. The policy requires that a new doctor's surgery is to be provided. During the examination sessions the Council suggested that the policy wording could be clarified so that a serviced plot was required, not the doctor's surgery itself, and that it would not be required if evidence at the planning application stage demonstrated that it was not needed. I agree with this view and consider that this amended wording would make the policy effective.
92. I consider the other requirements in Policy FAC2 to be justified and that there is a degree of flexibility in the affordable housing requirement on viability grounds as set out above. However **MM25**, in relation to the doctor's surgery, is necessary for soundness.

Peasmarsh

93. Policy PEA1 allocates land to the south of Main Street for residential development and open space. The site lies behind the houses which front on to Main Street. The proposed vehicular access will be created by demolishing an existing property. A separate pedestrian access point would be created via an existing path to the east of the site. The Council has produced an indicative plan showing the detail of this access (Doc RDC-DaSA-019). From the plan and from my observations on the site there would be a clear pinch point for around 17m where the converging boundaries on either side result in a reduction in carriageway width from around 5m to around 3.7m. In addition there would be a 1.7m footway running the full length of the access road on one side. Although such a narrowing would require traffic calming and prioritisation, I do not consider that it would prevent access being gained to the site and the site not being capable of being developed.
94. Main Street at the point of the intended access is speed restricted with a 30mph speed limit. Whilst I understand the concerns of local residents about traffic speeds along the road as vehicles enter the village from the west, the highway authority do not object to the proposed access arrangement, and I have no evidence that in principle there would be harm to highway safety so as to make the proposal undeliverable.
95. For the reasons above, I consider that Policy PEA1 is justified and effective and is sound.

Rye Harbour

96. In order to ensure that the proposals for the two allocations demonstrate that there would be no adverse impact on the Natura 2000 sites and to be consistent with Policy DEN4 of the DaSA, Policies RHA1 and RHA2 require additional policy criteria for effectiveness. **MM27** and **MM28** are therefore necessary for soundness. To ensure consistency with Policy DEN5 of the

DaSA, an additional policy criterion of Policy RHA2 is necessary. **MM29** is therefore necessary for effectiveness to make the policy sound.

Westfield

97. Policy WES4, Land between Moor Lane and the A28, allocates a narrow strip of land for allotments. The site is no longer available for the use proposed in the DaSA. Consequently the policy is not deliverable and is not justified. **MM30** is necessary to delete the allocation. However, I would expect the Council and the Parish Council to be working together to find an alternative site for allotments in the village given that there is a recognised shortfall in the village and if necessary undertake this work as part of the Local Plan review the timetable for which is set out in its LDS.

Conclusion

98. Subject to the main modifications, the site allocation policies are justified, effective and consistent with national policy. They are soundly based.

Issue 5 – Are the overall housing supply and delivery assumptions justified, effective and in accordance with the Core Strategy?

99. The CS sets out the development targets for the district 2011-2028. Policy OSS1 of the Core Strategy sets out a target of at least 5,700 dwellings (net) during that period.
100. The CS sets out specific targets for key localities in the district which accord with its spatial strategy. These are 3,100 dwellings in Bexhill, 100-250 dwellings in the Hastings Fringes, 475-500 dwellings in Battle, 355-400 dwellings in Rye, and 1,670 dwellings in the Rural Areas. The CS breaks down the Rural Areas requirement figure between individual villages in Policy RA1 and Figure 12 which accompanies it.
101. Policy OVE1 of the DaSA states that the Core Strategy requirement of at least 5,700 dwellings over the period to 2028 will be met through housing allocations, other provisions within the DaSA and neighbourhood plans.
102. The Council has produced a supporting document, *Local Plan Monitoring Report -Housing Land Supply as at 1 April 2018* (Doc PS30). This document has the same base date as the housing figures in the submitted DaSA. The Council also produced a second document, *Local Plan Monitoring Report-Housing Land Supply as at 1 October 2018* (DocSI1). Whilst the second document included some additional information, it also contained half year completions. This caused an element of confusion at the hearing sessions particularly in respect of housing activity within neighbourhood plan areas.
103. I consider that as it includes full year housing completions, and the data accords with that set out in the proposed submission version of the DaSA, 1 April 2018 is therefore the appropriate base date on which to consider the housing land supply position for the DaSA.

104. Doc PS30 shows that in the CS plan period from 2011-April 2018 1,324 dwellings of the 5,700 had been completed. As at 1 April 2018 there was planning permission in the district for 2,469 dwellings.
105. The Council has made an allowance of 225 dwellings to be made from windfall sites from 1 April 2023 and 45 from exception sites in the same period. Small site completions in the district have averaged around 58 per year in the Core Strategy period 2011 to 2018 and I consider that it would be appropriate to include some provision for their contribution in the DaSA period. I have no evidence which indicates that completions from such sites would dry up or reduce, and given the nature of the district and the policies within the DaSA, I consider that it is entirely reasonable to assume that they will continue to make a contribution to housing supply. I consider that the evidence justifies the allowance of 225 dwellings from windfalls and that this figure should be included within the assessment of supply, rather than as a buffer on top of it.
106. A contribution of 45 dwellings has been assumed to come from rural exception sites in accordance with the proposed policies. I consider this to be reasonable.
107. Of the sites with planning permission which form the basis of the 2500 allowance, Worsham Farm in Bexhill is the largest. It is an allocation within the RDLP and has planning permission for 1050 dwellings. A statement of common ground between the landowner, developer and the Council dated 17 April 2019 was submitted as part of the Council's Statement (RDC-DaSA-013). This includes a detailed phasing plan for delivery. Works have started on the site and will build up to peak delivery in the period 2022-2026. On the basis of the information I am satisfied that it is appropriate that there is a reasonable prospect that the site can be delivered within the plan period. Within the same document (Doc RDC-DaSa-013) there is a similar statement of common ground and trajectory for Preston Hall Farm in Bexhill. It is significantly smaller than Worsham Farm. Development on that site has commenced and I am satisfied from the evidence that the delivery assumptions are appropriate.
108. In respect of the neighbourhood plan areas, the adopted neighbourhood plans have allocations contained within them, whilst the emerging neighbourhood plans are expected to allocate sites to accord with the provisions of the Core Strategy. The Blackfriars site in Battle did not have planning permission at the base date of 1 April 2018. However, an outline planning application for 220 dwellings was submitted during the examination and has been granted planning permission subject to the completion of a section 106 agreement. The principle of development on the site was already established in the RDLP. I have no evidence which makes me consider that it, or the other sites subject to planning applications in Battle, could not be completed during the course of the DaSA plan period.
109. In any case, Policy OVE1 of the DaSA includes provision for planning applications for housing within neighbourhood plan areas which are not yet in force, to be considered favourably subject to meeting other policy requirements in the plan. I am satisfied that this is an appropriate backstop

mechanism should any of the outstanding neighbourhood plans not come forward in a timely manner.

110. The proposed allocations in the DaSA, neighbourhood plans and the expected provision in the emerging neighbourhood plans, would equate to around 2,171 dwellings over the plan period, against a residual requirement of around 1,637 dwellings taking account of completions, sites with planning permission and allowances for small and exception sites.
111. For the reasons set out above, I consider that the overall housing supply and delivery assumptions within the DaSA are justified, effective and accord with the CS.

Assessment of Legal Compliance

112. My examination of the legal compliance of the Plan is summarised below.
113. The DaSA has been prepared in accordance with the Council's Local Development Scheme.
114. Consultation on the preparation of the DaSA and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
115. Sustainability Appraisal has been carried out and is adequate.
116. The Habitats Regulations Appropriate Assessment Report September 2018 (Doc SG2) identified those policies and sites which would have likely significant effects on the integrity of European sites. An Appropriate Assessment was undertaken and it concluded that the policy framework within the DaSA will ensure that no adverse effects would occur on the integrity of the SPA/SAC/Ramsar sites located in close proximity to them, alone or in combination. The DaSA HRA took account of the judgement of the Court of Justice of the European Union issued on 12 April 2018 in relation to the screening of the HRA. The MMs were subject to HRA in July 2019 and that report forms an addendum to the DaSA HRA (Doc RDC-DaSA-M3). It concluded that the MMs would not lead to likely significant effects on European sites.
117. The DaSA includes policies designed to secure that the development and use of land in the local planning authority's area contributes to the mitigation of, and adaptation to, climate change in combination with the policies of the CS. These include the various policies setting out the approach to renewable energy, water efficiency and sustainable drainage. In addition, the overall spatial focus of development on Bexhill set out in the CS and to which policies and allocations in this plan give effect to, is intended to reduce the need to travel. Accordingly the plans, taken as a whole, achieve this statutory objective.
118. The DaSA complies with all other relevant legal requirements, including those in the 2004 Act (as amended) and the 2012 Regulations. The DaSA is consistent with the CS except for the three policies and one part policy which are intended to replace those in the development plan. These policies, and the ones that are replaced are set out in the Council's LDS and in the Appendix of the DaSA. However **MM31** is necessary for effectiveness to

ensure that there is clarity within the Appendix as to which CS policies are superseded.

119. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of traveller sites to meet need, and the seeking of accessible and adaptable housing.

Overall Conclusion and Recommendation

120. The DaSA has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

121. The Council has requested that I recommend MMs to make the DaSA sound and capable of adoption. I conclude that with the recommended main modifications set out in the Appendix the Rother Development and Site Allocations Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Mike Worden

Inspector

This report is accompanied by an Appendix containing the Main Modifications.