

Hastings Local Plan, Development Management Plan Examination

Matter 1: General Principles

Prepared October 2014

MATTER 1: GENERAL PRINCIPLES

Issue 1: Whether the Council has complied with all the legal requirements and, in particular, the duty to co-operate; and in general terms, whether the Plan conforms with the Council's adopted Hastings Planning Strategy and the National Planning Policy Framework (the Framework) in terms of type, amount and distribution of development, the plan period and the conservation of historic and natural assets.

General response

- 1 The Council considers it's Revised Submitted Development Management Local Plan to be "sound" on the basis that it meets all four of the tests of soundness in that it is positively prepared, justified, effective and consistent with National Planning Policy as well as the adopted Hastings Planning Strategy. It has complied with all its legal requirements, including the Duty to Co-operate, as demonstrated in the Statement of Compliance with the Duty to Co-operate, the Council's Development Management Plan Compatibility: Self-Assessment Parts 1 & 2, and the Council's response to the six specific queries raised at the Pre Hearing meeting held on the 7th October Agenda: Item 5 (HBC/1).

<p>1.1 Which measures has the Council taken to comply with the duty to-co-operate, with which local authorities and other bodies has that co-operation taken place and what has been the outcome of that co-operation? What documentary evidence is there to convince all concerned that effective co-operation has taken place and which evidence is there in the Plan of the effectiveness of that co-operation? How has the Council acted as a "good neighbour" in the preparation of the Plan? And which measures has the Council taken to ensure that the Plan is legally compliant?</p>
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- 1.1.1. The Council has met its legal obligations of Section 33A(1) of the Planning & Compulsory Act 2004, (introduced through the Localism Act 2011), in relation to how it has co-operated with other Authorities and statutory agencies concerning cross boundary strategic matters. This requirement has been supplemented by policy requirements in the National Planning Policy Framework (NPPF, paragraph 156) as well as a recent Planning Practice Guide 'Duty to Co-operate' published by the Department of Communities and Local Government on 6th March 2014. The 'Duty' places a legal obligation on Local Planning Authorities, County Councils in England and public bodies to engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters.
- 1.1.2. The Planning Inspectors Report for Hastings Planning Strategy published on 31st October 2013, concluded (paragraph 9) that the Borough Council has provided "*good evidence of effective and continuing partnership*" through long standing good relationships with other Local Authorities, particularly East Sussex County Council and Rother District Council, as well as other statutory providers (Library reference HBC/DMP/25).
- 1.1.3. Hastings Borough Council continues to have a high level of constructive co-operation with other Authorities and public bodies, in particular East Sussex County Council

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and Rother District Council, and has been a major partner in the implementation of a number of cross boundary projects regarding strategic planning matters such as the Bexhill - Hastings Link Road and successful funding bids to SELEP in respect of the Government's Growth Deal. This sustained and on-going approach to co-operation has resulted in a sound evidence base that underpins both the adopted Planning Strategy and Development Management Plan, as well as the specific Site Allocations and Planning Policies proposed in the Development Management Plan. (East Sussex County Council's Matters Statement also submitted to this examination as well as Rother District Council, confirm this approach to cross boundary strategic issues.)

- 1.1.4. Robust evidence to demonstrate in what way it has successfully worked with other organisations to plan for issues with cross boundary implications of site allocations and its policies is provided in the Statement of Compliance with the Duty to Co-operate (DtC) published in July 2014 (Library reference HBC/DMP/10).
- 1.1.5. The DtC Statement also describes how engagement with relevant bodies listed under the Duty to Co-operate has assisted in the development of a wide range of strategic matters and helped to shape and influence the Plan as now submitted.
- 1.1.6. Most particularly, this includes issues around housing and employment needs and growth, strategic site allocations including a site for possible renewable energy generation, infrastructure delivery planning, including particularly transport, education and the environment. Appendix 1 of the DtC Statement provides a summary by strategic theme of how those bodies prescribed under the Duty have had influence on the outcomes in the Planning Strategy and the DMP. Table 1 in the DtC Statement also lists the type of co-operation by organisation. Out of those 25 site allocations with potential cross boundary issues listed in Appendix 2 of the DtC Statement, Rother District Council has only made formal representations on 5 sites in the published Revised Proposed Submission version (2014), and East Sussex County Council, none at all. All of the representations from Rother District Council support the policy allocations proposed subject to amendments which the Borough Council has addressed through minor (focussed) changes to the Plan.
- 1.1.7. The Council has also worked closely and effectively with other authorities and public bodies across its local boundaries. The Council's Consultation Statement (July 2014) (Library reference HBC/DMP/06) illustrates how the Council has constructively engaged with local organisations, the community as well as those prescribed in the Localism Act.
- 1.1.8. A detailed schedule of a record of the discussions and meetings that have taken place with the prescribed bodies has also been provided to offer further evidence, in response to requests at the Hastings Planning Strategy Examination in Public (2013). In accordance with recent Planning Practice Guidance issued in March 2014, updated information is now assimilated as part of the Local Plan Monitoring Report (LPMR Appendix 2) (Library reference HBC/DMP/27).

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1.1.9. This schedule demonstrates the type of meetings that have taken place with key organisations to discuss the strategic matters as defined by the Duty to Co-operate. Hastings Borough Council has therefore fulfilled its requirements under the Duty, as well as those in the National Planning Policy Framework and will continue to do so through continued dialogue including on a more formal countywide basis through Local Plan Manager meetings as well as through the East Sussex Member Group of respective Portfolio Holders for strategic planning.

1.2 To what extent does the Plan conform with, and amplify the guiding principles set out in the Hastings Planning Strategy and the Framework? Have there been any changes in Government planning policies or any other changes in planning circumstances to merit any departure from the policies and proposals set out in the Hastings Planning Strategy? And, if so, which consequent changes have been, or should have been included in the Plan?

1.2.1. The Development Management Plan (DMP) like the Planning Strategy underpins and reflects spatially the town's Sustainable Community Strategy. In particular the DMP plays a central role in the overall task of place shaping, through its policies; its elaboration of the identified Focus Areas; and in its site allocations by way of identifying sufficient land for housing, economic growth and regeneration, as well as opportunities for investment in retail and tourism. The Plan also contains policies to ensure that the infrastructure for a sustainable community is put in place. The DMP is consistent with the overall targets for housing and employment growth set out in the adopted Planning Strategy as well as the best use of previously developed land in the urban area (NPPF, paragraphs 17 -21).

1.2.2. For instance, the Planning Strategy sets out the Council's approach to New Housing Development and the target for housing development which is confirmed as being at least 3,400 new homes for the period 2011-2028, based on objectively assessed needs. Similarly Policy DS2 of the Planning Strategy identifies a need for the development of up to 70,000m² of employment floor space in the town between up to 2028. Sufficient sites have thus been allocated in Section Three of the Development Management Plan to meet these targets and needs. The Local Plan Monitoring Report (April 2014) illustrates how the site allocations adequately meet the 5 year supply of deliverable and developable land (including a 20% buffer allowance) for housing.

1.2.3. For Planning and Decision Making Purposes, the policies in the Planning Strategy and Development Management Plan (DMP) necessitate consideration as a whole. The Planning Strategy is the first point of reference setting out the overarching strategic policies for the area (paragraph 2.3 page 14 of the DMP refers). The DMP then stipulates more detailed policies to shape the construction of new development to deliver the overarching policies in the Planning Strategy. The Policy linkages between the two Plans are explicitly pointed out in Part ii) General Guidance (page 16) of the DMP, paragraphs 2.12, 2.13, 2.14 & 2.16 as well as beneath each of the individual policies under the heading "Relationship to the Planning Strategy (2014)".

1.2.4. For example, the Planning Strategy and Policies Map have divided the Borough into three broad spatial areas – Western Area, Central Area, and Eastern Area. The

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Planning Strategy then divides the Borough further into 13 Planning Focus Areas that form functional local neighbourhood areas for spatial planning purposes.

- 1.2.5. The DMP describes the main characteristics of each of these Focus Areas, and provides a vision for its future in accordance with strategic policies in the Planning Strategy. It also allocates housing and employment sites (with policies to guide development on each) to meet the Focus Area Vision as well as the Area Strategy. Some larger sites have also been attributed a design brief in the Appendices (page 222 onwards) which provide further detailed guidance on delivery.
- 1.2.6. In terms of Heritage, Strategic Policy EN1: Built and Historic Environment in chapter 7 (page 64) of the Planning Strategy seeks to promote development that will make a positive contribution to the character and distinctiveness of the area *‘Development which sustains and enhances the significance of heritage assets and/or their setting will be encouraged.’* Policies HN1–HN5 in Section Two Part iv) of the Development Management Plan (DMP) then provide more detailed management policies that seek to protect and enhance specific heritage assets within the town.
- 1.2.7. Policy HN6 - The Former Convent of Holy Child Jesus, Magdalen Road provides a specific policy that positively promotes repair and conservation of the Grade II* and other Listed buildings that are currently in poor condition on this site. This approach is discussed further in the Council’s response to Matter 4. This and the other Heritage policies in the DMP are fully consistent with the guidance in the NPPF paragraphs 126–141. In particular paragraph 140 (page 32) (Library reference HBC/DMP/67) which reads as follows:
- “Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.”*
- 1.2.8. The policies in the Planning Strategy and the DMP also fully comply with the NPPF on conserving and enhancing the natural environment, the requirements of BS42020 Biodiversity – Code of practice for planning and development and Natural England’s Standing Advice. Paragraphs 4.9–4.31 and Policies HN7–HN10 (pages 34–37) of the Plan in particular set out the Council’s general requirements for the inclusion, protection and enhancement of green infrastructure in future development proposals and explain that within each of the Site Allocations proposals should seek to identify specific opportunities for enhancing biodiversity and green infrastructure wherever possible. This is considered to be strongly compatible with paragraph 114 of the NPPF. Policy DM5 - ‘Ground Condition’ (DMP Section Two, Part ii on page 21) specifies the Council’s approach to Land Stability and is further evidence of consistency with the Framework (paragraph 120 on page 28).
- 1.2.9. As referred to earlier in this Matter Statement, the Council has prepared a two part Self-Assessment of Compatibility with both the Framework and the latest Planning Practice Guidance (PPGs). Part 1 of the Self-Assessment (Library reference HBC/DMP/11) shows how the Hastings Local Plan (Development Management Plan - Revised Submission), complies with the Town and Country Planning Regulations 2012, and is in conformity with the Framework published in March 2012. The Self-Assessment has been undertaken and structured around the guidance provided by

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the Planning Advisory Service in its (Local Plan: Soundness Self-Assessment Checklist) and has been submitted alongside the Submission of the Plan to fulfil the requirements of legislation and meet best practice (Planning Inspectorate - Examining Local Plans Procedural Practice December 2013 (3rd Edition v.2).

- 1.2.10. A suite of new on line Planning Practice Guidance (PPG) was issued by the Secretary of State for Communities and Local Government on 6th March 2014, after the Revised Proposed Submission version of the DMP had been already approved by Cabinet for Consultation. The PPGs replaced a raft of policy guidance in earlier Planning Policy Statements, Circulars and Ministerial Statements, and followed a comprehensive review of planning policy guidance undertaken by Lord Taylor of Goss Moor which began in October 2012. The PPGs contain 41 categories from 'Advertisements' to 'Water Supply'.
- 1.2.11. With regards to changes in Government Policy/planning policies and how this has affected the Plan, Part 2 of the Hastings Borough Council Self-Assessment (Library reference HBC/DMP/12) has therefore reviewed the Revised Proposed Submission version of the Development Management Plan (DMP) in accordance with this most up-to-date Planning Practice Guidance. The Self-Assessment showed that there were a number of procedural areas within the DMP that could be enhanced by a number of 'Minor (Focussed) Amendments. A list of these minor changes have been published alongside the Submitted Plan (Library reference HBC/DMP/04).
- 1.2.12. They include a number of technical changes to pages 14 & 15 to reflect the national planning policy emphasis on Neighbourhood Planning (where these exist), Planning Performance Agreements, Environmental Impact Assessments, Appeals, Enforcement, Hazardous Substances and Flood Risk. This approach shows that the Plan has taken account of any relevant change in Government Policies. Other changes itemised in the schedule of Minor (Focussed) Amendments have arisen from representations received seeking clarification on the policies in the 'Revised Proposed Submission Version' printed for consultation between 10th March and 22nd April 2014.
- 1.2.13. The two Local Plan documents (Planning Strategy and Development Management Plan) share the same plan period from 2011-2028 as well as the same guiding principles which are exhibited with the same specific objectives (page 8 paragraphs 1.1–1.3). Section Four of the DMP - Implementation and Monitoring makes further evidence as how the two Plan's objectives inter-relate.

1.3 Has the plan been positively prepared and, if so, in which ways? Does it provide a suitable basis for delivery of a sustainable future that balances economic, social and environmental interests (including a radical reduction in greenhouse gas emissions and air pollution and provide a resilience to the impacts of climate change) and does it support the delivery of renewable and low carbon energy and associated infrastructure (see for example Framework paragraphs 6,8,17, & 93).

- 1.3.1. Hastings Borough Council considers that the Development Management Plan (DMP) has been positively prepared and is based on objectively assessed development and infrastructure requirements. Hastings and Rother have both relatively recently

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presented their jointly agreed Planning Strategies for meeting the 'objectively assessed need for Housing (OAHN) at their respective Examinations in Public for the Core Strategies, as it is requirement of the Framework. Recent announcements in respect of Green belts have also confirmed that Planning is more than just about meeting housing needs - and encompasses the requirement to also protect natural and heritage assets, as well as ensure appropriate infrastructure delivery to support sustainable growth. An updated Infrastructure Delivery plan has also been published alongside the Submission of the plan (Library reference HBC/DMP/13).

- 1.3.2. In looking to prepare a positive Plan that balances the Council's ambitions and need for growth with appropriate environmental protection we have been conscious of the challenge that we have faced. We recognise that over the period of the Plan demands for new housing and jobs will grow. We will need to balance these demands with the need to protect the quality of our built and natural environment. We need to ensure that in positively planning for growth the benefits of proposals are fairly distributed. This includes provision not only of new homes, but also jobs and training for local people together with maximising social and affordable housing. Some examples of the Council's positive approach to development are already in evidence on the ground. The Bexhill – Hastings Link Road with its employment and housing potential is one such prime example, others include the expanding University of Brighton in Hastings, Sussex Coast College, the restoration of Hastings Pier, continuing development of Priory Quarter, and the implementation of the Queensway business parks. Some objectors to the Plan consider that we are looking to provide too much growth, others too little. Overall we believe the Plan to be positively prepared and to provide a deliverable and sustainable future for the Borough.
- 1.3.3. The DMP spatially addresses through its site allocations and planning policies, the economic, social and environmental needs agreed in the adopted Planning Strategy, in accordance with paragraph 7 (page 2) of the Framework. In accordance with the requirements of the SEA Directive 2001/42/EC the Sustainability Appraisals undertaken throughout the preparation of the Local plan process show how sustainability considerations have shaped and influenced the content of the DMP.
- 1.3.4. The Council's overarching approach to sustainable development, adapting to the challenge of climate change, and progress towards zero carbon development, flooding, coastal change and water supply are set out in Chapter 6 and in Policy SC1 (page 58) of the Planning Strategy. The Strategy has a strong focus on delivering sustainable development and in protecting and mitigating against climate change. The policies under the sub-heading 'Managing Change' will apply to all new developments (and should be considered in the decision making process) to ensure development is designed and built in the most sustainable way.
- 1.3.5. Therefore Policy SC2 & SC3 of the Planning Strategy provide the strategic framework for achieving sustainable and green design in new developments and specify the means of compliance through Design and Access Statements. The DMP (pages 16-17) then goes on to explain the Council's approach to ensuring quality urban design which can bring about an urban renaissance and help make places become more sustainable, by bringing together the composite elements of environmental stewardship, social equity and economic viability. Together, Policy DM1 – Design Principles, DM3 General Amenity and DM4 - General Access of the DMP, therefore amplify necessary aspects of overarching Planning Strategy policies

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and identify some specific detailed Design Principles that should explicitly be addressed to achieve good quality urban design. For instance, the need to balance achieving a good quality of life for future users with an efficient use of resources as well as a minimal impact on the heritage/landscape value of the surrounding area.

- 1.3.6. In addition, Policy DM1 identifies the importance of siting and location for passive solar gain. Site Allocation FB12 – Land south of Upper Wilting Farm in Focus Area 3 in the Western Spatial Area has been specifically included to support the delivery of large scale renewable energy and its associated infrastructure, as well as offset future emissions through renewable energy generation by identifying a suitable site for the installation of wind turbines. The findings of the Hastings Renewable and Low Carbon Energy Study (2009) (Library reference HBC/DMP/33), however, did not highlight any Sites Allocations for instance for Housing or Employment where higher standards of sustainable design than those already set out in the Planning Strategy (paragraph 6.8 page 60) and the ever tightening Building Regulations would be viable.
- 1.3.7. The NPPF principles towards adapting new developments to flood risk, have however been taken forward on individual Site Allocations following detailed liaison with and work carried out on Strategic Flood Risk Assessment (SFRA) and sequential testing with the support of the Environment Agency. This approach is also reflected in the Design Briefs in Appendix A of the Development Management Plan (DMP).
- 1.3.8. In accordance with the SFRA (Sequential tests) specific criteria have been added to the individual site allocations policies within the DMP to require a Flood Risk Assessment (FRA) where developments may be proposed in higher risk areas which may be exacerbated from future climate change i.e. Flood Risk Zones 2 & 3. Further reference in the supplementary text has been proposed through the minor (focussed) modifications to paragraph 2.11, to explain that information and assistance is available from the Environment Agency to ensure that all developments adapt their designs to take account the enhanced flood risks, through what is sometimes termed “resilience planning” where relevant and are acceptable. Information on climate change scenarios has been incorporated into the Flood Risk Zones in the latest Strategic Flood Risk Assessment carried out by the Council. An initial SFRA was first prepared in 2008 to support the policies in the Planning Strategy. Further sequential testing of each of the DMP site allocations was undertaken by AECOM in both 2012 & 2014 (and approved by the Environment Agency in June 2014) to support the allocations in the Development Management Plan (Library references HBC/DMP/34a-m, HBC/DMP/157 and HBC/DMP/168).

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1.4 Is the general approach to the management of development suitably set out and are the policies drafted sufficiently rigorously? For example, should Policy LP1 state something along the lines of *'all development proposals will be determined in accordance with the provisions of the development plan (the Hastings Local Plan comprising the Hastings Planning Strategy and the Development Management Plan) so far as material to the planning application and with any other material consideration including the National Planning Policy Framework. Particular requirements / criteria are set out for development of each allocated site.'* Should the thrust of as many policies as practicable be that *'planning permission will be granted provided that... or planning permission will not be granted unless/ until....?'*

1.4.1. The Council has sought to make the Development Management Plan as succinct as possible and therefore sought not to replicate National Guidance or the Planning Strategy in its policies. However, with regards to the suggestion that the Plan might more clearly articulate the primacy of the Development Plan (as laid down in legislation), the Council can confirm that it would have no objection with the wording suggested. This will reinforce the NPPF paragraphs 11 & 12, and the need to have a presumption in favour of sustainable development that is in accordance with the Local Plan, which in Hastings is both the Planning Strategy and the DMP, as well as other material considerations and the Framework.

1.4.2. The need for more guidance to reflect the specific criteria for determining planning applications has been identified in the Self-Assessment Part 2, which considered the amendments required to ensure the Plan's conformity with recently issued Planning Practice Guidance notes. The proposed wording suggested in the above question could be included in the schedule of Minor Amendments as follows:

"All development proposals will be determined in accordance with the provisions of the development plan (the Hastings Local Plan comprising the Hastings Planning Strategy and the Development Management Plan) and with any other material consideration including the National Planning Policy Framework, and any neighbourhood plans where they exist). Particular requirements/criteria are set out for development of each allocated site."

1.4.3. If agreed the above wording would replace the first two paragraphs of the Policy LP1 up to *"The spatial extent of the policies are shown on the Policies Map."*

1.4.4. In response to the second part of question 1.4 *"Should the thrust of as many policies as practicable be that 'planning permission will be granted provided that... or planning permission will not be granted unless/ until....?'*, the answer is yes. The Council considers that the Plan does reflect the presumption in favour of sustainable development and has been positively prepared. Many policies do already reaffirm this approach such as Policy HC1 - Conversion of Existing Dwellings which states that *"To support the provision of quality homes and dwelling mix, converting all or part of a dwelling to another use or into multiple dwellings **will normally be permitted** provided that:"* Similarly Policy HC3 - Community Facilities reads as follows *"Proposals for the provision of community facilities **will be granted planning permission**, provided that the development is acceptable in terms of location,*

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design, access and impact on the locality, and is in general conformity with other policies of this Plan, in particular DM1 and DM3. “

- 1.4.5. It is acknowledged that there are some policies within the Plan where a more positive approach in policy wording could perhaps be more appropriate and in line with the suggestion made. For instance Policy HN6 - Former Convent of Holy Child Jesus, Magdalen Road (page 33), and Policy CV03 – Rear of Old London Road (page 208). However these policies are currently more cautiously worded not only to reflect comments received from the local community and other organisations through the various consultation stages on the Plan, but also to give added weight to the requirements also placed upon the Local Planning Authority to protect and enhance, as well as to resist development in certain locations and circumstances.
- 1.4.6. It is of course within the scope and remit of the Inspector during the Public Examination to recommend changes to the plan as main modifications as is considered to be necessary. Should the Inspector recommend that some of the Policies be altered to include wording along the lines of “*permission will usually be granted where*”, then the Council is happy to consider these as modifications to the DMP.