



20 February 2017

Dear Sir,

**Objection to Rother District Council’s Development and Site Allocations Plan**

I am Matthew Horton. I have lived in Beckley for twenty years. I wish to object to the sites selected in the village by Rother District Council (“RDC”) provisionally for development for housing in the Development and Site Allocations (“DaSA”) Local Plan – Options and Preferred Options.

I am a barrister (Queen’s Counsel) specialising in town and country planning, among other practice areas. I own over one hundred acres of farmland and woodland adjoining the west side of King’s Bank Lane. Part of my southern boundary adjoins Buddens Green, one of the proposed allocation sites.

I own also SHLAA site F02, which I bought many years ago when it was advertised for sale. My reason for purchasing it was that, with my knowledge of planning and development for housing, I knew that it was likely that further housing would be required in the village and I considered what is now known as SHLAA site F02 to be the most attractive location for such housing. Prior to my purchase, a number of other sites had been sold at auction. I considered that depending on the number of houses required in the future, F02 could be developed

attractively with the eastern part of F08. Accordingly, I approached the owners of that land (who had purchased it at auction) and we agreed to seek to bring the combined site forward for development in the fullness of time. This objection is submitted therefore with their agreement as part of that process.

My objections are as follows:

**(1) PROCEDURAL**

- (i) (a) Despite being a local resident and adjoining landowner to the Buddens Green site, I have not been informed by RDC of the proposals. I learnt of them through other residents and have now been given a copy of a letter dated 10<sup>th</sup> December 2016 to RJ Thomson Esq at his former address, Braeside House, in Main Street, notifying him of the proposals. To have failed to have notified me personally was procedurally improper and unfair.
  
- (b) It seems likely that I am not the only resident of the village who has not been informed formally of the proposals. From the failure to inform me and others (if that is the case) it appears that the obligation to consult, imposed by Regulation 18 of the Town & Country Planning (Local Planning) (England) Regulations 2012 has not been properly discharged and RDC must re-advertise and re-consult so that every resident of the village is informed of the proposals and of the right to make representations about them.

- (c) The letter to Mr Thomson “*encourages*” but does not require those making comments “*to use the Council’s web-based consultation system*”, but states that “*alternatively*” comments may be sent “*by post or via email*”. It further states, however, that such comments “*should be submitted using the proper form which can be found on the Council’s website or obtained at one of three ‘deposit points’ in Bexhill, Battle and Rye respectively*”. That requirement cannot be lawful. There may be persons who, for example for financial reasons or age, are not computer literate or do not have a computer, or are not able to travel to any of the three towns. In my opinion, comments in a letter sent by post, identifying the subject matter as commenting on the DaSA is a lawful representation which RDC must take into account. Not to take it into account would be procedurally unfair and render unlawful the consultation process.

Please inform me whether RDC accepts sub-paragraphs (a) to (c) above as correct or, if it does not, inform me of its reasons for not agreeing.

- (ii) There are no diagrammatic layouts of the housing proposed on each site proposed for housing by RDC. Both sites are of limited size, adjoin existing development and require the creation of an internal access road; their ability to accommodate physically the number of dwellings allocated on each site cannot be judged without diagrammatic layouts. Because the justification for the total number of dwellings proposed on the two sites together is stated in the DaSA to be “*to meet the development targets set out in the Core Strategy*”, it is critical to be confident that the twenty dwellings for Beckley can be accommodated satisfactorily physically on the sites proposed. The lack of such layouts invalidates therefore

the DaSA for failing to provide sufficient detail to enable a proper assessment to be made by the public.

## (2) SUBSTANTIVE OBJECTIONS

Without conceding that the proper legal requirements relating to public consultation have been observed, I set out below my substantive objections, which the summary objections lodged on 20<sup>th</sup> February 2017 by email on RDC's forms provided on its website. This letter and those forms should be read together:

### (i) Overall context – Non Site Specific Issues

(a) The DaSA is based on the Core Strategy which is stated by RDC to “*set the vision and overall targets for Rother District to 2028*”. It follows that in the DaSA the “*vision*” referred to should be identified so that a judgement may be made as to whether development of the sites proposed would accord with that vision. Nowhere in the DaSA is that vision identified, let alone the manner in which the development of the two sites would accord with it.

(b) Based on my examination of the Core Strategy, although it is invidious to be unduly selective, I suggest that the following precepts are key components of the vision which should guide the choice of sites for housing and the manner of their development in Beckley / Four Oaks.

- The distinctive characteristics of the village and its countryside setting should be recognised and respected (Core Strategy paragraph 5.7 and 7.7).
- To increase the overall prosperity of the village should be a “*key local objective*” (Core Strategy paragraph 5.3).
- The design of any new development should include “*an appropriate high quality response to local context and landscape*” (Core Strategy paragraph 12.40).

(c) The existing character of Beckley / Four Oaks.

As its name recognises, historically Beckley / Four Oaks comprised two separate settlements, Beckley to the west and Four Oaks to the east, but it is usual now to refer to them as one settlement known as Beckley. Most of the development in both is linear in character along Main Street (B2088) and Whitbread Lane (the A268). The original settlement of Beckley is medieval in origin and centred on the parish church. It has a number of very fine listed buildings. Four Oaks is less distinguished, although it has some charming older buildings, although their setting has been harmed by more modern buildings, the design of which has ignored entirely the local vernacular style, for example the Garage Door Shop, Tamarisk and the pairs of 1970s semis on the north side of Main Street leading to the mini roundabout on the Rye Road (the A268 known as Whitbread Lane).

In an appeal decision in 2005 (APP/U/1430/A/04/1149785 – the “2005 Appeal decision”) an appeal by a local resident, Mr Goodwin, against the refusal by RDC of planning permission for housing on the open land immediately to the west of Buddens Green, the Inspector stated (Decision Letter (“DL”) para. 23) that “*Beckley may not rank amongst the most highly attractive villages*”; he stated also, however, that “*it is not without considerable charm*” and that many of its houses are “*in a pleasing Wealden vernacular style*”. He identified as “[a] most distinctive and attractive feature of the village... the open spaces along Main Street” stating that “*they prevent an unrelieved ribbon of development, and provide views from the roadside into the surrounding countryside*”. He considered that to fill such a gap would “*substantially harm the countryside and the landscape quality of the AONB*” (DL paragraph 24). He emphasised also that such harm would result not only from occupying the “*road frontage*” but from extending “*well back from the highway*” (DL para. 25).

- (d) It is clear from the foregoing that the gaps and views referred to above are distinctive of Beckley / Four Oaks and any vision for development in the village should respect those characteristics. It is also clear that more recent development in a non-vernacular style in Four Oaks has detracted from the charm of the village and should be redressed when the opportunity arises.
- (ii) Extent to which the current DaSA has had regard to the context described above.

The DaSA emerged in 2013 from RDC’s earlier Strategic Housing Land Availability Assessment (“SHLAA”) published in 2010 following a site

identification consultation exercise in 2008 pursuant to which development sites could be proposed by the public. Fourteen sites were put forward in Four Oaks. All but one were rejected; the exception was site F012 which comprised a field known locally as Bushy Field, owned by a local resident, Mr Goodwin, together with an adjoining area of open land, owned by the Beckley Parish Council behind the Buddens Green development. In the SHLAA, the site was described inaccurately as “*land to the rear of Buddens Close*” and was stated to be “*suitable and developable*”. No mention was made of the Inspector’s judgement in the 2005 appeal decision that to develop the gap in which the site is situated would substantially harm the street scene, the countryside and the AONB.

In reliance on the SHLAA, Mr Goodwin submitted a further application in 2016 which officers informed him they could not support, whereupon he withdrew it but has subsequently submitted a further application for a reduced number of dwellings.

I and many others, relying on the 2005 appeal decision, have objected to that application. The application has yet to be determined, but I assume that it will be refused, since, in the DaSA, RDC, in identifying land south of Buddens Green (Ref. F012a) as a preferred site for some eight dwellings, states that “*a western extension is not considered appropriate, as this area has been recognised, via appeals, as providing an important, characteristic open gap along the road frontage, with views over it*”.

Although, therefore, in contrast to the SHLAA, the DaSA has taken account of the 2005 appeal decision by excluding the open land to the west of Buddens

Green, it has failed to understand that decision correctly by continuing to propose development on that part of the gap behind Buddens Green. That failure is part of a wider failure by RDC to evaluate correctly the contribution of the whole gap to the surrounding countryside and the AONB. This is elaborated further in section 2(iii) below.

(iii) Site specific reasons for objecting to the proposed allocation south of Buddens Green (F012a).

- The area proposed for housing is visually an important part of the gap identified in the 2005 appeal decision as to be protected from development. The whole of the proposed area can be seen from the footpath to the east and from King's Bank Lane to the west over the field gate opposite Royal Oak Close. It is a beautiful rural view which would be ruined by built development.
- To develop the area for housing would conflict with the Inspector's judgement in the 2005 decision that "*development in depth extending well back from the highway*" would be "*greatly at odds with the predominantly frontage development in the vicinity*" (see DL para. 25).
- The development would be harmful to the enjoyment of walkers on the footpath by reason of its built form and light pollution.
- The development would devastate the rural outlook to the south from the existing Buddens Green dwellings.

- The development would create an oppressive sense of enclosure to those existing dwellings.
- The inclusion of the existing green to the north of the Buddens Green dwellings is entirely unnecessary. That green has matured into a most attractive amenity space for the existing residents and should be excluded from the proposed allocation just as the existing dwellings have been excluded.
- The proposal “*to incorporate... as open amenity land*” that part of the open land to the west of the proposed housing conflicts with the 2005 appeal decision which recorded that (DL para. 11) “*it has been used as farm land in the past and there is no substantial evidence to support assertions that it is unsuitable for such use*”. The activities and paraphernalia associated with an amenity use would jar with the idyllic rural vista from Main Street to the south, of which the land forms part.
- Given that Buddens Green enjoys already a green of its own and given that the existing village recreation ground lies a short distance to the west and is accessible both from Main Street and King’s Bank Lane, even if the dwellings were to be built, there is no need for the land to the west to be allocated as amenity land. Furthermore, via the footpath to the east, access can be gained readily to the Forestry Commission woodland to the south.
- It is not stated whether the proposed dwellings should be “*affordable*” (as the existing dwellings are). There is, however, no need for such provision

on this site. Such provision can be provided as part of a proposed development of affordable and market housing on site F02 and part of F08 on the SHLAA map. This proposal is the subject of the pre-application advice process at the present time. It is described further in section 2(vi) below.

- Answers to question 55 in the DaSA:

QUESTION 55: For the reasons set out above, I disagree with Policy BEC2. It should be deleted in its entirety and replaced by a policy providing for the provision of the housing requirement for Beckley Four Oaks on SHLAA sites F02 and part of F08.

- (iv) Site specific reasons for objecting to the proposed allocation of land east of Hobbs Lane (F015) (the “Manroy site”).

- This allocation conflicts with the RDC’s previous approach to identifying further land for housing in Four Oaks which consistently sought sites “*central to the village*” (see e.g. SHLAA comments in supporting site F012).
- The allocation includes land which was part of site F06 in the SHLAA. In rejecting that site the comment in the SHLAA was:

*“Accessibility to local facilities and services is relatively poor at this end of the settlement compared to other available sites which are more centrally located and closer to local services... Unacceptable*

*impact on the landscape character of the AONB. Not suitable for housing.”*

- In the Rother District Council Local Plan 2006, the northern end of Hobbs Lane was allocated for employment uses. Such uses still predominate and the appropriateness of those uses has been confirmed in recent years by allowing redevelopment for those purposes on the western side of the Lane. It is necessary to continue to safeguard land for such uses in this location. The importance of being able to accommodate employment uses in the village must increase as the population increases. It follows that to release the land for housing is contrary to the cardinal principle of sustainability which central government and local policy requires to be respected in taking all decisions relating to the use and development of land. The sustainability principle requires the safeguarding of the employment needs of present and future generations.
  
- To permit housing in this location merely perpetuates the approach to development in Beckley / Four Oaks which distributes it on small plots and enclaves without any regard for the overall character of the settlement and the desirability of providing a heart to the village where residents can congregate and interact. With the closure of the Royal Oak pub and retail outlets in Main Street to the east, the need for such a heart is all the greater, highly popular though the Rose and Crown pub is at the western end of the settlement. It is envisaged that the development favoured by the owners of F02 and part of F08 would complement that pub by providing a green open space and a village shop in an environmentally acceptable manner. The

size and location of the Manroy site makes it entirely unsuitable for that purpose.

- Answer to Question 54 in the DaSA.

It follows that I disagree with Policy BEC1. It should be deleted since it is not appropriate to provide any housing on the site. Far more satisfactory provision can be made on SHLAA sites F02, together with part of site F08. A policy should be introduced to provide for that.

- (v) Proposed development boundaries in the DaSA.

Answer to Question 56

It follows from my answers to Questions 54 and 55 that I do not agree with the proposed development boundary for Beckley Four Oaks shown on Figure 73 of the DaSA. Neither of the proposed amendments should be adopted but a new amendment should be made to incorporate SHLAA site F02 and that part of SHLAA site F08 which adjoins the southern boundary of site F02.

- (vi) The justification for amending the settlement boundary for Beckley by incorporating SHLAA site F02, together with part of SHLAA site F08.

- In the SHLAA, site F012 was favoured as being “*relatively central to the village, close to existing services and in a sustainable location*”. The same characteristics apply to the proposed alternative location. In the SHLAA,

however, F012 was described incorrectly as not having views over it (from Main Street) that “*extend into the open countryside*”. The 2005 appeal decision establishes that there are such views and that they are to be prized and protected. The decision establishes also that site F012 comprises part of an important gap on Main Street which, together with the adjoining open land to the rear (south) of Buddens Green, should be safeguarded as open land.

- The reasons given in the SHLAA for opposing site F02 and F08 as sites for housing do not withstand critical scrutiny. In particular:
  - o The description of the existing pattern and form of development in Beckley Four Oaks as being “*ribbon development interspersed with gaps between cluster of development*” applies to development along Main Street. It does not apply to development along Whitbread Lane.
  - o The development site F02 would merely extend the existing uninterrupted line of development along Whitbread Lane from the mini roundabout at the junction with Main Street. The extension would halt at the point where the thirty mile an hour speed limit on that section of Whitbread Lane ceases.
  - o The opposite side of Whitbread Lane along that stretch of the lane is already developed with housing.

- F02 is largely screened from view from Whitbread Lane by a mature native hedge. In any event, the landscape quality of F02 is manifestly modest and greatly inferior to F012.
  - The part of F08 proposed for inclusion with F02 as a housing site does not “*extend well into the countryside*”. That description in the reason in the SHLAA for rejecting F08 plainly applies to the western section of F08 which is not proposed for inclusion with F02 as a housing site. Similarly, the frontage of F08 on Main Street is not proposed for inclusion.
- Development of F02 and the relevant part of F08 would be a logical consolidation of existing development along Main Street and Whitbread Lane. By virtue of being behind that development, it would not change the existing street scene in Main Street to a material degree and certainly, subject to proper control over layout and design, would not be harmful. It can be designed and laid out so as to have the appearance of traditional village housing which has been provided gradually rather than having the appearance of a housing estate. If access is taken through the Garage Door site, it would enhance the conservation area by removing the ugly buildings on the frontage of that site and replacing and repositioning it with a building which respects the village vernacular.
- The size of the site is such that it can provide the full complement of dwellings (affordable and open market housing) planned in the village and

can accommodate green open space accessible to the public and a local shop and café if desired.

Yours faithfully,

**Matthew Horton QC**