



Lewes District Council

Southover House
Southover Road
Lewes BN7 1AB
01273 471600
01273 484488 minicom
www.lewes.gov.uk

19 February 2015

Dear Mr Stoner

Windfall Sites – Lewes District Local plan and Wivelsfield Neighbourhood Plan

Thank you for your letter of 13 February. I will seek to clarify the current position regarding windfalls, the Joint Core Strategy (JCS - also known as Local Plan Part 1) and the relationship with Neighbourhood Plans in this respect, having particular regard to Wivelsfield parish.

1 Definitions and References

- 1.1 The JCS definition of a 'windfall site' is also relevant here, "*– a site not specifically allocated for development in a development plan, but which unexpectedly becomes available for development during the lifetime of a plan. Most windfalls are referred to in a housing context. They tend to be small sites for a small number of homes*".
- 1.2 This approach to windfall, including the methodology used for calculating an allowance for Lewes District and consistency with the NPPF and the national Planning Practice Guidance, have recently been considered by the Planning Inspector at the JCS Examination in Public. The Inspector has found this approach to be generally justified for this district and recommends that a slightly increased annual allowance could be acceptable here. We are working on this as a modification to the JCS to put to the Inspector.
- 1.3 The various definitions of windfall sites are very similar and have the key common thread that they are sites that come forward for housing development that have not been allocated for housing. Generally these will be smaller sites but this will not always be the case as sites may come forward over the plan period that are not currently expected to be available. Naturally it becomes more difficult to accurately predict the further ahead you look and so we cannot realistically identify every site that will become available for housing 10-15 years from now. However, in most cases it will be smaller sites that come forward in this unidentified way. Once there is an adopted core strategy in place most windfall sites will consist of brownfield sites within settlement planning boundaries. The Gleasons' site at North Common Road is an example of an exception to this, which has come forward outside the settlement planning boundary as a result of the lack of a five year supply of housing land in the district. This position will be remedied once the JCS becomes the up-to-date

Strategic Policy
01273 484417
ldf@lewes.gov.uk

development plan and a five year housing land supply can be demonstrated again. Hence, unidentified/unallocated greenfield sites outside the settlement planning boundaries will not be an ongoing source of windfall development.

1.4 Table 5 of the JCS (p46/47 of the Submission JCS) sets out the planned levels of housing growth by settlement. The settlements listed each have a minimum number of homes to be delivered through subsequent allocations. For Wivelsfield Green this is a minimum of 30 homes. These minimum requirements are specifically for homes to be delivered through planned housing allocations. Such allocations may be made in Neighbourhood Plans or Local Plan Part 2 / SDNPA Local Plan as relevant. In some cases this may be through a combination of allocations in a Neighbourhood Plan and Local Plan Part 2 / SDNPA Local Plan as relevant. The JCS (including in Table 5 and SP1 and SP2) is clear that there will be other sources of housing delivery in each settlement over the JCS plan period, consisting of completions, commitments, strategic sites, and windfalls.

1.5 Strategic Policy officers have consistently advised town and parish councils and district councillors that the planned housing minimum figures for each settlement cannot be discounted by windfalls as the two are separate streams of housing delivery with different definitions and clearly identified as separate sources in the JCS, taking an approach in accordance with the NPPF.

2 Windfall Sites – Target

2.1 It is important to make the distinction between the district's full, objectively assessed need for housing (OAN) and the level of housing growth and distribution set out in JCS policy SP2.

2.2 Identifying the OAN is a requirement of the NPPF. It is essentially a raw assessment of the overall, unconstrained, requirement for affordable and market housing in the district over the plan period. The Planning Inspector has agreed that Lewes district's OAN has been correctly assessed at 10,400 homes to 2030 (520 per year). The OAN is based on fact and evidence and does not consider constraints to delivery such as environmental designations, flood risk and infrastructure capacity, which all have impacts in this district. The Inspector has agreed in his Interim Findings letter that, once such considerable constraints are taken into account, we cannot plan to deliver 10,400 homes to 2030 in this district. Instead he is advising that a minimum of 6,900 homes (345 a year) must be delivered instead. He considers this to be the appropriate balance between the social, economic and environmental elements of sustainable development as set out in the NPPF, having regard to the requirement for Local Plans to significantly boost the supply of housing.

2.3 The housing growth and distribution identified in SP2 in the Submission JCS took meeting the OAN as the starting point, and then factored in evidence including the various constraints to housing delivery identified above, the relative sustainability of the various settlements and information from the SHLAA about suitable, available and achievable sites for housing. We have also had regard to the cumulative impacts of housing delivery.

2.4 We are now reviewing and updating our evidence base and the specifics of policy SP2 in response to the Inspector's Interim Findings requirement for delivery of a minimum of 6,900 homes to 2030 (up from 5,790 as presented to the Inspector at the Examination). On the Inspector's recommendation, some of this additional requirement is likely to be made up from an additional strategic housing allocation at

Lewes, an increased windfall allowance¹ and a modest allowance for local needs/affordable housing through rural exception sites. We will also provide the up-to-date data on completions and commitments when we submit potential modifications to the Inspector. However, as the planned growth by settlement is already expressed as 'minimum' the Inspector is not requiring us to materially alter the minimum indicative figures for each settlement to plan for. This is because the minimum figures already allow sufficient scope for all reasonable options for additional housing sites to be identified, considered, and then allocated as appropriate in Neighbourhood Plans, Local Plan Part 2, SDNPA Local Plan or a combination of these, in order to plan for and deliver the required minimum of 6,900 homes by 2030.

- 2.5 The Gleeson site at North Common Road does not benefit from an allocation for housing and as such clearly cannot be counted against the minimum housing figure to be delivered through subsequent allocations for Wivelsfield Green. As you will know, the planning application was submitted in response to the lack of an identified five year supply of housing land, which renders the housing restriction policies of the 2003 Local Plan out of date. This leaves us in a vulnerable position when defending unplanned development proposed outside the settlement planning boundaries. This development proposal was put forward on unallocated land. It has been considered by the Secretary of State at S78 Appeal. The appeal was allowed and so the 75 homes are now included in our commitments figures. However, as it was unplanned/unallocated it cannot be offset against the minimum allocation requirement of 30 homes for Wivelsfield Green.
- 2.6 While 75 units is not what we could consider a 'small' site, the windfall definitions do not restrict windfall only to small sites, they just explain that in the majority of cases windfalls will be small sites. Technically, windfall could include development schemes of any size that has not been previously allocated.
- 2.7 The JCS windfall allowance has been counted against the district's overall housing requirement, rather than disaggregated between settlements. This approach is consistent with the NPPF and Planning Practice Guidance and accordingly has not been questioned by the JCS Inspector. For the reason that windfall does not, by definition, include housing delivered through allocated sites, it would not be appropriate for the Wivelsfield Neighbourhood Plan to seek to discount the requirement for an allocated minimum of 30 homes by windfalls at Wivelsfield Green. Any additional minimum requirement 'handed down' as a result of the increased housing requirement in to JCS to minimum 6,900 will already have been discounted by inclusion at the strategic plan level of an appropriate allowance for windfall over the plan period. To include a further windfall allowance in a Neighbourhood Plan would therefore double-count reasonable windfall delivery. In any event, windfall still cannot be used to offset the minimum allocated housing requirements for each settlement.
- 2.8 There may be instances where parish councils elsewhere in the country are seeking to use a windfall allowance as a strand for meeting their housing requirements. However this would be in cases where their settlement housing target is for all sources of delivery (including windfalls and allocations). Again, the minimum

¹ The Planning Inspector has suggested that a slightly less cautious assessment of the total number of homes reasonably likely to be delivered through "windfalls" over the plan period might reasonably be applied (Initial Findings letter ID-05 www.lewes.gov.uk/Files/plan_ID-05_Letter_to_Councils_10_Feb_2015.pdf).

settlement housing requirements in the Lewes District JCS represents the minimum amount of housing to be delivered specifically through allocations in that settlement. As the windfall element of housing delivery is addressed in the JCS it does not require repetition in Neighbourhood Plans. Seeking to include a windfall allowance in lieu of making adequate allocations would leave the Neighbourhood Plan inconsistent with the higher-level JCS. Where a Neighbourhood Plan does not allocate sufficient land for housing, either by allocating less than is required or choosing not to make allocations, allocations can of course be picked up through Local plan Part 2 / SDNPA Local plan instead.

- 2.9 In light of the Inspector's Initial Findings it is not anticipated that the minimum settlement targets set out in SP2 will need to be increased in the modifications to the JCS that we will prepare in response. Instead, consideration of all reasonable options for subsequent allocations across the district, sufficient to meet the overall minimum figure of 6,900, will be made through Local Plan Part 2/ SDNPA Local Plan (and Neighbourhood Plans where applicable). That process would include consideration of the relative sustainability of the settlements, up to date site availability/delivery information in the latest iteration of the SHLAA, the cumulative impacts of the delivery of more than one site in a local area, the context of the JCS strategic policies and the prevailing national policy and guidance.

3 Objectively Assessed Need

- 3.1 As described in paragraph 2.2 above, there is an important difference between OAN and the planned level of housing growth by settlement set out in policy SP2.
- 3.2 The district's OAN for housing significantly exceeds the level of housing growth identified in the JCS, even with the increased requirement advised by the Inspector. The Inspector also agrees that there is limited, if any, scope for nearby authorities to meet our shortfall. Hence it is so important, in the interests of meeting the social and economic elements of sustainable development, that the district's housing targets are expressed as minimum figures in order that all reasonable options for housing delivery are explored. The third element of sustainable development, the environment, is clearly a strong limiting factor on development in the district and it is largely as a result of this that the Inspector has accepted that we cannot meet our full OAN, despite the NPPF requirement to seek to do so.
- 3.3 While the 75 homes allowed by the Secretary of State at North Common Road will make a contribution towards meeting the district's OAN and the overall requirement to deliver at least 6,900 homes to 2030, there is still a very significant shortfall between 6,900 and the OAN (of around 3,500 homes), which has little realistic prospect of being met elsewhere in the sub-region at this time (one of the largest accepted shortfalls against OAN in the country). Against this strategic position, and considering the definition of windfall, I consider that there is no case for Wivelsfield Green not to deliver a minimum of 30 homes to 2030 on allocated sites.

4 Undermining Wivelsfield Neighbourhood Plan

- 4.1 Until the JCS is adopted (or such time as we may apply sufficient weight to emerging policies SP1 and SP2 for use in calculating our five year housing land supply), it is possible that further speculative applications for housing may be made and potentially permitted by the local planning authority or by appeal. This is the case across the district, not just at Wivelsfield. At present, the Wivelsfield Neighbourhood Plan has not reached an 'advanced' stage and so only very limited policy weight may yet be applied to the Neighbourhood Plan, including its proposed site allocations.

- 4.2 It is possible that one or more sites that are currently under consideration for allocation in the Neighbourhood Plan could be the subject of a planning application for housing development before the Neighbourhood Plan reaches an advanced stage or before we can demonstrate a five year supply of land for housing through giving significant/full weight to policies SP1 and SP2. Apologies for repetition, but to re-emphasise, a site that is granted consent, which does not benefit from an allocation for housing, cannot be counted against the minimum allocation number.
- 4.3 The situation is a result of the NPPF's intent to significantly boost the supply of housing now and its emphasis on the need for up-to-date development plans to deliver homes. Since the NPPF was published it has been clear that we will be expected to pursue all reasonable options for meeting as much of the OAN as is sustainably deliverable. Several Inspectors have now confirmed during the course of Local Plan examinations, here and elsewhere, that only a 'no stone unturned' approach is good enough in this respect. The situation is not about 'claiming housing numbers' or 'appropriating sites' for LDC vs Wivelsfield Parish Council. It is about meeting significant housing needs across the district, in accordance with the national framework, as far as is sustainably deliverable.

I hope that this letter will provide the information that you seek. However, if you require more information or clarification please do contact me again.

Yours sincerely



Catherine Jack
Interim Head of Planning Policy