

High Weald Joint Advisory Committee

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Working together to care for an Area of Outstanding Natural Beauty

One of the National Landscapes family

Rother District Council

Emailed to draftlocalplan@rother.gov.uk

22nd July 2024

Dear Sirs

Draft Rother Local Plan (Regulation 18) Consultation

Thank you for your consultation on the above draft Local Plan.

We are pleased to see emphasis on the High Weald National Landscape (AONB) set out in 'Green to the Core'; one of the two overall priorities in the draft Local Plan, and in Spatial Objective no. 2.

Please see below our general comments on the draft Local Plan structure and content, and detailed comments relating to the draft policies regarding landscape and the High Weald NL, BNG, design quality, public realm (streets for all), overall development strategies, housing, economy, landscape character, dark skies, and heritage.

We also intend to provide to you in the next few weeks a separate response to the draft Housing and Economic Land Availability Assessment (HELAA), which we note does not form part of the draft reg 18 Local Plan.

General comments

Overall Spatial Development Strategy

The text in the yellow box on page 112 presently sets out that "The Council will meet the local need for all forms of housing, jobs, facilities and services by...." However, we understand (and support) that the draft Local Plan does not necessarily seek to fully meet the OAN figure in full, due to the extent of the High Weald AONB, which makes up 82% of the district, and we consider the wording should be amended to explain this. (For background context, para 11 (b) (i) of the NPPF allows for strategic policies in Local Plans to provide for less than the OAN where the application of other NPPF policies that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area. Footnote 7 confirms that NPPF policies related to AONBs are in the list of such policies.)

It is noted that the Reg 18 draft Local Plan presently proposes a range of housing figures over the plan period, and it is understood that the figure will be refined following consideration of the HELAA sites post the Reg 18 consultation, which will inform the Reg 19 draft plan, and which we trust will take into account any comments we subsequently submit on the HELAA sites in the context of the AONB. In this regard, it is considered reference should be made in tables 35 and 36 in the draft Local Plan to highlight that these figures are subject to further scrutiny in terms of consideration of impacts of proposed HELAA sites on the High Weald AONB.

Anglesey
Arnsdale and Silverdale
Blackdown Hills
Cannock Chase
Chichester Harbour
Chilterns
Clwydian Range
Cornwall
Cotswolds
Gower
Cranbourne Chase and Dee Valley
West Wiltshire Downs
Dedham Vale
Dorset
East Devon
Forest of Bowland
Howardian Hills
High Weald
Isle of Wight
Isles of Scilly
Kent Downs
Lincolnshire Wolds
Llyn
Malvern Hills
Mendip Hills
Nidderdale
Norfolk Coast
North Devon
North Pennines
North Wessex Downs
Northumberland Coast
Quantock Hills
Shropshire Hills
Solway Coast
South Devon
Suffolk Coast and Heaths
Surrey Hills
Tamar Valley
Wye Valley

Document Structure

The 'Green to the Core' and 'Live Well Locally' priorities are strong and admirable themes, but we consider it is a somewhat confusing for the reader/user of the Plan in terms of how certain policies have been selected to sit within these two sections 3 and 4, while certain other associated policies are left to other sections later in the document.

One suggestion to address this could be to slightly re-order the policies, using 'Green to the Core' and 'Live Well Locally' as umbrella themes, under which sub-headings sat; for example 'Green to the Core' could have subheadings 'Resource Management' (which would include GTC1-GTC6 inclusive), Landscape Character (which would include GTC9 plus LAN1 -LAN3 inclusive), Biodiversity (which would include GTC7, GTC8, and ENV5) and Environmental Management (which would include policies ENV1-ENV4, ENV6 and ENV7) – as well as giving greater clarity, this would also give greater weight to the Green to the Core priority, promoting that all of these policies contribute to this.

Meanwhile 'Live Well Locally' could have subheadings 'Placemaking' (policies LWL1-LWL8 inclusive) Heritage (policies HER1 – HER3 inclusive), Health & Wellbeing (policies HWB1-7 inclusive) and 'Infrastructure' (policies INF1, INF2).

This would leave existing sections 5 (Development Strategy & Principles), 8 (Housing), and 9 (Economy) as stand-alone sections which cross both the two priority themes.

'Visions'

The Visions for spatial areas of the district, set out on pages 123-164, could benefit from some explanatory/linking text showing how the various policies of the plan seek to achieve these visions. For example, how the 'Vision for the Countryside' links to policies ECO5, ECO7, ECO8 and GTC9.

Response to draft policies

Policy GTC9: High Weald National Landscape (AONB)

This policy, and its references to the AONB Management Plan, is supported. It would be helpful if this policy could be accompanied by a map showing the extent of the High Weald National Landscape within Rother district.

In the explanatory text, the wording of para 3.51 could helpfully be expanded to clarify that both policies will apply; suggested amended wording (in bold):

*"It should also be noted that developments for housing, commercial, renewable energy, health and well-being and tourism uses are the subject of **additional** separate policies in the Local Plan, with the emphasis on locations outside of the High Weald National Landscape and, where appropriate, within them on a small scale, **in accordance with policy GTC9.**"*

Policy GTC8: Biodiversity Net Gain

We would wish to see specific reference made to the High Weald AONB, suggested additional text:

"Within the High Weald AONB, BNG proposals should be informed by a robust understanding of the habitat typologies and systems of the High Weald, in order that they are designed to provide a genuine positive contribution to local biodiversity and habitats. Proposed enhanced or new habitats should function as a meaningful part of the wider connected High Weald habitat mosaic, with reference to the components of natural beauty set out in the AONB Management Plan, and should support the Nature Recovery principles set out in the AONB Management Plan."

Proposed Policy LWL5: Distinctive Places

This policy is generally supported, and the reference to the High Weald Housing Design Guide where relevant is welcomed, as is the explanatory text. We consider the policy would be better renamed **‘Well -designed and distinctive places’** to be clearer for users of the Local Plan, and to more closely align with the NPPF.

We consider the policy would be strengthened by the addition of the following text (in bold) in the introductory line:

“All development proposals for one or more new dwelling must **be of high design quality by meeting** the following criteria”

Under **part (i) Response To Site, Character and Landscape Context**, we advise that the words **‘including settlement pattern and streetscape character’** be added after the words *‘and beyond’*.

We also consider that **part iii)** could be reworded to simplify; suggested rewording:

“**Development within of affecting the setting of the High Weald National Landscape should be landscape-led and designed in a way that follows the guidance in the High Weald AONB Housing Design Guide and Colour Study (see GTC9)**”

And we suggest the following rewording to **part vi)**

“Existing **Site Assets and Landscape Features: Retain and use existing on-site or site adjacent assets/landscape features, such as mature trees, ponds and streams, as key placemaking within the scheme around which the layout is structured, and** capitalise on other existing features such as key views beyond a site.”

And we suggest **parts vii) and viii)** could be merged into one point, to simplify the policy.

We would also like to see **Proposed Policy LWL6: Built Form** also include specific reference to the HW AONB Housing Design Guide (as LWL5 does) as this applies equally to this policy.

Proposed Policy LWL8: Multimodal Parking

We consider the structure of this policy could helpfully be amended, as **part iii)** should apply to all car-parking, not just on-street parking. To address this, we recommend that **part ii)** should be re-named *‘Car-parking Strategies’*, then list points **a-e** that are in currently in part iii, then add the current part ii text as a point **f** to that list.

Also we note that **part vi) Car Parking Courts** sets out that *‘Rear car parking courts serving houses must be avoided where possible.’* The High Weald Housing Design Guide does include parking courtyards as a suitable parking type to serve terraces or mews (Design Theme DG6: Parking Strategies, p31) but qualifies this by advising they must be small-scale, usually serving no more than five dwellings, well overlooked, and where possible defined by buildings bordering the space, arranged to animate the courtyard, or bounded by appropriate planting, rather than enclosed by bleak runs of close-board fences to back gardens. We would like to see the policy be amended to adopt similar language.

Part vi) also seems to contradict **part ix) Communal ‘Remote’ Car Parking** – we suggest these two parts could be combined and rationalised, to avoid confusion, and the term *‘remote’* omitted as it could be misinterpreted.

Proposed Policy LWL7: Streets for All

Whilst we are pleased to Historic Streets in **part xii**) of this draft policy, and references to Historic England's *Streets for All* publication, we consider this **part xii**) might be better re-located to within **Proposed Policy HER1: Heritage Management**, which would offer the opportunity to include greater reference and weight to the subject of the historic public realm (highlighted in the High Weald AONB Management Plan within the Settlements character component)- this is expanded below under our comments for Policy HER1.

'Vision for Rye & Eastern Settlements'

We consider this vision statement should include the reference to the High Weald NL that other 'Visions' do (i.e. for Battle & for Northen Rother) – much of this vision area is within the HWNL, or within its setting.

'Vision for Northen Rother'

We are concerned about the somewhat vague statement '*bypasses to Flimwell and Hurst Green could open up opportunities for future development along the A21 corridor.*' Any such proposals, both for bypasses and future development, would have the potential to impact significantly on the natural beauty of the High Weald AONB. Certainly this statement should be qualified in the vision by the addition of text such as '**subject to careful consideration of impacts on the natural beauty of the High Weald National Landscape....**' Moreover, as any potential for future development is as yet not assessed, it may also be more appropriate to delete the reference to that, and instead focus the statement on the role that such bypasses could play in achieving sustainable transport goals.

Proposed Policy HOU13: New Dwellings in the Countryside

We are concerned about proposed **part vi**) to this policy – whilst we support the intention of allowing very small-scale growth to small settlements and hamlets within the AONB to support thriving rural communities, we are concerned that the policy could lead to ribbon development or the construction of large single dwellings in edge-of-settlement locations that could erode the distinctive landscape settings of settlements and settlement pattern and character in the AONB. Furthermore we are concerned about the wording that promotes development where the site is either a small gap in an otherwise built-up frontage – frequent green spaces within settlements, offering glimpse views to the countryside beyond, are identified in the AONB Management Plan as a key characteristic of the 'Settlement' character component of the High Weald's natural beauty, and Objectives S1 and PQ2 of the AONB Management Plan are also particularly relevant in this regard. The wording of such a policy therefore needs careful consideration; we suggest amended wording to part vi) as follows: (though we would be happy to continue discussing this with you further in more detail)

- vi) **Very small-scale development; pairs of dwellings or small terraces of 3 or 4 units, either within a settlement without a development boundary or adjacent to an existing development boundary, to support thriving rural communities, where:**
 - a) **the site is adjacent to the edge of an otherwise built-up frontage; and**
 - b) **where the site accords with policies within the Live Well Locally chapter and is close to local services including public transport connections and accessible to them by wheeling, walking or cycling; and**
 - c) **where the siting, scale and design of the development would support and not detract from the historic settlement pattern and character of the locality; and**
 - d) **where the location of the development would not extend beyond any highly legible visual and landscape termination to the existing settlement; and**

- e) where the location of the development would not result in the coalescence of distinct settlements/dwellings; and
- f) where the development would not infill important green gaps through which the High Weald National Landscape is glimpsed and appreciated.
- g) In all cases the proposal must accord with policies in the Landscape Character and Heritage chapters, safeguarding intrinsic and distinctive landscape character and scenic beauty and paying particular regard to the conservation of the High Weald National Landscape and historic environment.
- h) To prevent the inappropriate extension of settlements, proposals adjacent to a site which has previously been developed under this provision will not usually be permitted.

We are also concerned that at present the draft Local Plan sets out no policy for the retention of housing for land-based workers through the resistance of removal of Agricultural Occupancy conditions (or similar) – this is set out as a specific ‘Action’ within the Land-based economy & Rural Living character component of the High Weald AONB Management Plan, in order to help meet rural housing needs of land-based workers.

An example of such a condition is:

To support the housing needs of the rural land-based sector, land-based workers’ dwellings will be restricted to remain available for meeting the accommodation needs of a land-based worker or any resident dependants living withing the property. The removal of an occupancy condition will only be permitted where it can be demonstrated to the satisfaction of the Council that:

- a) There is unlikely to be any need for such rural worker dwellings at the site or within the local area as demonstrated by an up-to-date assessment of the demand for land-based worker dwellings;
- b) It can be demonstrated that the agriculture, forestry or land based rural business is no longer financially viable; and
- c) Robust and comprehensive evidence has been provided to demonstrate that the property has been subject to continuous marketing for an 18-month period at either a rental or sale price that reflects the occupancy condition in place.

We advise that a similar condition, with appropriate explanatory text, be included either within **Proposed Policy HOU13** or in a dedicated Land-based Workers Housing policy.

Proposed Policy HWB6: Public Rights of Way

We would wish to see this policy include reference to the High Weald AONB Management Plan (for PROWs within the High Weald NL), in particular to the Management Plan’s Objectives relating to historic routeways as a key character component of natural beauty in the HWNL.

Proposed Policy ECO5: Tourism Activities, Facilities and Accommodation

There seems to be some duplication and some inconsistency between this policy and the subsequent **Proposed Policy ECO6: Holiday Sites**. We suggest these be reviewed to see if they can be combined. If not, then ECO5 should also include the caveats set out in **parts (i) and (ii) of ECO6** relating to landscape character, the HWNL and the needs of agriculture.

Proposed Policy ECO7: Agriculture Development and Forestry

within the 'New Agricultural Tracks' section, under **part (ix)** we would like to see the following text added:

"...and uses a landscape-appropriate choice of surface material such as crushed stone, hoggin or road planings, permeable where possible, and avoiding tarmac. Particular care should be taken in woodlands, including ancient woodlands, where the location and surface material of any new/enlarged track should not adversely impact on root areas of trees, the biodiversity of ground flora, or landscape character."

Proposed Policy LAN1: Rural Environments and Landscape Character

This policy is supported, and its references to the High Weald National Landscape are welcomed, as are references to open landscape between clearly defined settlements, including the visual character of settlements, settlement edges and their rural fringes, Ancient Woodlands tranquil and remote areas, including the dark night sky and other key landscape features.

Proposed Policy LAN2: Trees, Woodlands and Hedgerows

The intention of this policy is generally supported. Trees, woodland and hedgerows, including ancient woodland, are identified in the High Weald Management Plan as key character components of the natural beauty of the High Weald. However, in order to give appropriate weight to this, to clarify that this doesn't only apply to 'locally-valued' or 'protected' examples, and to align with the Objectives and Actions of the HW AONB Management Plan, would wish to see some additions/amendments to the proposed policy.

We advise the following amendments (additions in bold, also strikethroughs to delete text) to the opening lines of the policy:

"Development must **protect, and**, where appropriate, enhance and expand the district's tree, hedgerow and woodland resource **for landscape character (with particular regard to the HWNL), ecological habitat, role in climate change adaptation and health and wellbeing.**

Development that would result in the ~~unacceptable~~ loss of, or damage to, or threaten the continued well-being of, ~~locally valued and/or protected trees~~, hedgerows, community orchards, ~~veteran trees~~ or woodland will not be permitted. The following criteria must be met:"

In addition, we make the following comments to parts (i), (ii), (iii) and (v) of the policy:

Part (i) Sets out: '*A CAVAT assessment submitted with all applications impacting on individual or groups of trees in order to quantify the public amenity value.*' – Our understanding of the CAVAT method is that it is for individual, usually urban trees, and it doesn't offer any number for wider landscape value other than the setting of that tree. It is not considered a useable tool for woodlands in its current form. It therefore may not be appropriate to list this as a criteria to be met for all applications, nor to give it such weight as a primary consideration.

It is also important that the wording of this policy makes clear that amenity value is not the only consideration; additional wording should be included to set out that contribution to landscape character and the natural beauty of the HWNL are critical factors to be considered. References to LVIA assessment could be included here.

- Part (ii) sets out: *'No net loss of hedgerows, as they form a key component of local ecological networks and ecosystem services.'* Again, its not solely an ecological consideration; additional wording should be included to set out that contribution to landscape character and the natural beauty of the HWNL are critical factors to be considered.
- Also, the word 'net' should be deleted from this line – objectives and actions of the HW AONB Management Plan place great emphasis on the retention of existing hedgerows. The policy should set out that there should be **no loss**.
- Part (iii) As above, we consider the words 'and/or hedgerows' should be deleted from this part of the policy.
- Part (v) This part of the policy could helpfully also refer not just to proposed soft landscaping details, but also to the need for planning applications to include details of any proposed works to existing trees or hedgerows associated with the proposed development.

We also note that the matter of Ancient Woodland is covered not in LAN2, but instead in **Proposed Policy ENV5: Habitats and Species**. Whilst we understand why this may have been considered the appropriate location, we consider that this will lead to confusion for users of the Local Plan, and we advise that parts vi) and vii of ENV5 be relocated to LAN2, along with explanatory text paras 11.54 – 11.57 inclusive, in order that all consideration relating to trees and woodland are in one place in the Plan.

Proposed Policy LAN3: Dark Skies

This policy is supported. Dark Skies are identified in the High Weald Management Plan as a key character component of the natural beauty of the High Weald, and this policy's emphasis on the avoidance of the negative effects of light pollution on wildlife and landscape character is welcomed, as is the policy's specific reference to the dark skies of the High Weald National Landscape.

Proposed Policy ENV5: Habitats and Species

See comments for LAN2 above.

Proposed Policy ENV7: Environmental Pollution

We note that this policy understandably contains references to lighting; however, in some ways the supporting text to this policy duplicates much of **Proposed Policy LAN3: Dark Skies** and its supporting text, and in some instances is inconsistent with that policy; e.g. supporting text para 11.84 – zone E1 applies to all the HWNL, not just areas outside development boundaries, and that paragraph needs amending accordingly. We consider the supporting text here relating to lighting needs rationalising to avoid duplication, for example by primarily directing readers back to the supporting text for LAN3, and by deleting paras 11.81, 11.83, 11.84 and 11.85, potentially incorporating elements of those paras into the supporting text for LAN3 where appropriate.

Proposed Policy HER1: Heritage Management

We are generally supportive of this policy however, there are a couple of additions we would wish to see:

The High Weald AONB Management Plan includes a specific Objective with the 'Settlement' key character component of natural beauty, Objective S3 - *To conserve the distinct built heritage of the High Weald*. In this regard, we would like to see a reference to the role historic environment in the

High Weald National Landscape included in the supporting text, suggested additional text at end of supporting para 12.3:

“, and to the natural beauty of the High Weald National Landscape.”

Also, AONB Management Plan objective S3 (referred to above) includes specific mention of the historic public realm in the High Weald. As suggested in comments above, we consider **part xii of LWL7** might be better re-located to within **HER1**, and expanded to suggested text:

“Regard should be had to the conservation of historic public realm features as non-designated heritage assets, which cumulatively contribute to the rural landscape character particularly within the High Weald National Landscape”

To support this, we would wish to see specific reference, in the explanatory text, to the historic public realm as an important part of the historic environment, suggested text:

“The historic public realm across the High Weald is identified in the AONB Management Plan as playing an important role in defining the rural landscape character of the HW National Landscape. Historic features such as locally distinctive paving, railings, lamp-posts, milestones and historic fingerpost signs, along with red telephone kiosks and letterboxes, contribute positively to the character of the rural public realm.”

Other General Comments

It is noted that in a few instances, policies might helpfully cross-reference other policies in the plan, for example,

- bullet point (vi) of Proposed Policy HOU5: Rural Exception Sites might helpfully cross-refer to Policy GTC9: High Weald National Landscape (AONB) for relevant sites,
- Proposed Policy ECO5: Tourism Activities, Facilities and Accommodation – should include reference to other policies, including GTC9 for relevant sites, and to ECO8.
- Proposed Policies EN07 and EN08 should include reference to GTC9 for relevant sites.

HELAA

We will respond separately to the draft Housing and Economic Land Availability Assessment (HELAA) in the near future, in particular those sites within, or affecting the setting of the High Weald AONB, to help inform the consideration of potential sites in advance of the Local Plan Reg 19 version.

In general in this regard, we would highlight that we firmly consider that site specific allocation policies (including site specific requirements, including maps/plans assessing the sites and setting guiding principles, and references for the need for the layout and design approach to be based on the HW Housing Design Guide) should be provided within the Local Plan Reg 19 version for any sites within or affecting the setting of the High Weald National Landscape. This should help to ensure that such development is managed and coordinated within each location, and to ensure that clear and realistic expectations for each site are set, with regard to the local plan general policies, the High Weald AONB Management Plan, and the Council’s duty under section 85 of the CRow Act.

We would highlight at this stage that any site allocations proposed for grassland sites should also be subject to grassland surveys, and if found to be unimproved grassland/species rich grassland, these should not continue to be allocated for development in the Reg 19 version, since this is an important habitat type within the High Weald AONB, and an important part of its landscape character and natural beauty.

In addition to the above comments, we would also draw to your attention that Section 245 of the Levelling-Up and Regeneration Act 2023, which came into effect on 26th December 2023, has introduced important changes to legislation around protected landscapes. In particular, with regard to Areas of Outstanding Natural Beauty, Section 245 (5) to (10) of the Act amends the Countryside and Rights of Way (CROW) Act in a number of ways.

Most significantly, 245 (6)(a) amends section 85 of the CROW Act regarding the general duties of public bodies etc by inserting the following text:

“In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.” [my underlining]

This is considered to represent a strengthening of the previous section 85 duty, which set out that “a relevant authority shall have regard to the purpose....” [my underlining]

It is therefore important that this new duty is reflected in the content of the Local Plan, including in the evaluation of proposed site allocations.

The above comments are advisory and are the professional views of the AONB Unit’s Planning Advisor on the potential impacts on the High Weald landscape. They are not necessarily the views of the High Weald AONB Joint Advisory Committee.

Yours sincerely,

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Advising on an outstanding medieval landscape; connecting people, protecting beauty, restoring soils and nature.

Background Information about the High Weald National Landscape (AONB)



N.B. From November 22nd 2023, all AONBs are to be known as National Landscapes to reflect the importance of these protected landscapes (AONBs) alongside the UK's National Parks. High Weald National Landscape is the new name for this protected landscape. This change is endorsed by Natural England. The High Weald National Landscape remains an Area of Outstanding Natural Beauty insofar as all policy, legislation and guidance applies to the designated landscape. To be consistent with the NPPF, we will still be referring to the AONB in planning consultation responses. The statutory purpose of the designated landscape "to conserve and enhance the natural beauty of the designated landscape" remains unchanged and the High Weald AONB Management Plan remains valid.

The High Weald was designated in 1983 as an Area of Outstanding Natural Beauty. It is an exceptionally beautiful medieval landscape covering 564 square miles across the counties of East and West Sussex, Kent and Surrey.

The High Weald National Landscape Joint Advisory Committee is a partnership established in 1989 of 15 local authorities, Defra, Natural England and organisations representing farming, woodland, access and community interests. The JAC is responsible for publishing and monitoring the statutory AONB Management Plan. The JAC is supported by a small, dedicated staff team, the High Weald AONB Unit, which provides advice on how to conserve and enhance the AONB. The advice provided by the AONB Unit assists public bodies and statutory undertakers to meet their duty as set out in Section 85 of the Countryside and Rights of Way Act 2000 **to seek to further the purpose of conserving and enhancing the natural beauty of AONBs in making decisions that affect it.**

The High Weald AONB Unit is not a statutory body but an advisory one. It is not a local planning authority and the responsibility for determining planning applications remains with the 15 local authorities. The AONB Unit is not a statutory consultee on planning matters and it remains each local planning authority's decision whether or not they seek its advice on a particular planning application.

The scope of the advice in this letter is set by the statutory High Weald [AONB Management Plan](#), which has been adopted by all partner authorities, as 'their policy for the management of the area and for the carrying out of their functions in relation to it'.