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15 December 2016

Miss K Britton

Planning Policy & Heritage Manager

Canterbury City Council

Military Road

Canterbury CT1 1YW

Dear Miss Britton

**Further Findings and Main Modifications**

*Introduction*

I am most grateful for the work that the Council’s planning staff have undertaken in addressing the ‘To Do’ list of actions arising from the Stage 2 hearings, producing the consolidated November 2016 schedule of main modifications (MMs) and the further changes to the Proposals Map (PM).

I have considered these outcomes along with all that I have otherwise read, heard and seen during the Examination of the Local Plan (LP). However, I have not as yet taken account of the responses to the recent consultation on the implications of the recent High Court judgement in *ClientEarth v SOSEFRA [2016] EWHC 2740 (Admin)*, concerning the Government’s Air Quality Plan as I am awaiting the Council’s comments on those.

As a result of my deliberations, there are some detailed matters discussed during the Stage 2 hearings where I have come to a different view to the Council. Whereas the great majority of the draft MMs address many of my soundness concerns there are some matters where I have concluded that either additional MMs are necessary or that the Council’s suggested wording needs to be revised.

I have attached a ‘tracked changes’ version of the November 2016 MMs schedule that indicates the further changes required. Other than where the change is self-evident, I have generally included a brief explanation as to why it is necessary. However, there are some more significant instances where I have set out below a short summary of my reasons for the change. My full reasoning will be included in the final report to the Council in due course. I am not seeking the Council’s views on these changes as they are the outcome of the examination process to this point. I have also attached a note setting out the further changes to the Proposals Map that are necessary for consistency with my conclusions on the LP.

There are a few instances where I have indicated on the schedule that the MMs are not necessary for soundness and should be deleted. It is a matter for the Council as to whether they should be included in any list of additional modifications.

*Further Modifications*

*Brickfield Farm, Bridge (allocation for 40 dwellings).* This is one of the sites that the Council has identified to address the 5-year housing land supply position. I am not satisfied that the inclusion of this site has been justified, particularly in terms of its effect on the Kent Downs AONB in which it is located. It could be considered through the emerging Neighbourhood Plan but the MM proposing its inclusion in the LP should be removed, as should the proposed change to the PM.

*Affordable housing site size thresholds.* The LP seeks provision of affordable housing on sites of 7 or more units with the possibility of a financial contribution as an alternative on sites of 2 to 6 units. These are lower than the 10 unit threshold in the Government’s Written Ministerial Statement (WMS) of November 2014. In the context of the Court of Appeal judgement in *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441*, I have considered whether the evidence base and local circumstances justify the proposed thresholds. While there is clear local evidence of need I am not persuaded that circumstances locally justify a departure from the WMS. As such, Policy HD2 and supporting text should be modified to incorporate a 10 unit threshold (5 units lower than in the adopted Local Plan). I should be grateful if the Council would suggest the wording for these.

*Housing technical standards.* The Council has not established a clearly evidenced need to apply the nationally described residential internal space standards as proposed in its MMs. As Policy DBE7 as submitted requires compliance with local standards it must be modified in any event. As such, MMs to this and the supporting text (including deletion of Table D3) are required.

*Employment allocation at Canterbury West Station.* Given the Council’s clear intention to provide a multi deck car park on this existing surface car park site, its retention as an employment allocation is not justified and there should be an MM to delete this from Policy EMP1 (and it should be removed from the PM).

*Green Gap between Canterbury and the University of Kent.* Given the status of this area as part of an Area of High Landscape Value and the purposes of Green Gap policy, its designation as a Green Gap has not been justified and it should be deleted from the LP (and the PM).

*West Beach, Whitstable Local Green Space.* This does not fulfil all the requirements of the Framework for the designation, which is not appropriate for most green areas or open space. It should therefore be deleted from the LP (and the PM).

*Marketing requirements.* A number of different LP policies include criteria that require marketing exercises before a change of use to a building or premises can be justified. The duration of these varies. In the case of Policy TV3 the period is 2 years which is unduly onerous and should be reduced to 1 year (as the Council proposes for HD5).

*Appendices.* I have not attached a tracked changes version of these. I should be grateful if the Council could make the following changes to the Appendices as modified:

* Appendix 2 – delete Brickfield Farm as indicated above, with consequent changes to the total figures in the table.
* Add in a further appendix showing superseded policies as previously discussed and which the Council has in hand.

*Next steps*

I should be grateful if the Council would produce further versions of the schedule and PM changes document incorporating all these outcomes, checking the amendments that I have made for both sense and accuracy. While they cannot be finalised until after I have considered comments made in response to the consultation on the implications of the High Court judgement in *ClientEarth v SOSEFRA [2016] EWHC 2740 (Admin)*, it would be appropriate for the MMs to be numbered in accordance with a simple arithmetic sequence (MM1, MM2 etc).

Once I am content with the MM schedule and PM changes, I would wish to move to consultation on the MMs as quickly as possible. It is not possible to define a firm timetable for that until any implications of the High Court judgement are clear and considered. However, in preparation for the MM consultation the Council should consider whether the proposed MMs would require further revisions to the Sustainability Appraisal (SA), possibly as an Addendum as for the housing land supply amendments consultation. The conclusions of that should be subject to consultation at the same time as the MMs.

Any modifications additional to the MMs are a matter for the Council. If you should intend to consult on any of these then they should be contained in a separate Schedule. It should be made clear that they are not before me for consideration.

Consultation on the further changes proposed to the PM should take place at the same time as on the MMs.

In accordance with the Planning Inspectorate’s latest Procedural Practice in the Examination of Local Plans, June 2016 (4th Edition v.1) the Council should ensure that it is clear in the published material that the consultation is only about proposed MMs and not other aspects of the plan. The MMs are put forward without prejudice to my final conclusions on the plan and I will take account of all representations made on them.

The scope and length of the consultation on the proposed MMs should reflect that at Regulation 19 stage (at least 6 weeks). The general expectation is that issues raised in the consultation on the proposed MMs will be dealt with through the written representations process and that further hearing sessions will only be scheduled exceptionally.

In the light of this, I should be grateful if the Council could give consideration (if you have not already done so) to a timetable for the additional SA work and the subsequent consultation on that and the proposed MMs, the PM changes and any additional modifications that you may be seeking. In due course I should like to see copies of all the consultation material, including any forms, before it is published.

If you should have further queries on any of this please come back to me via the Programme Officer.

Yours sincerely

M J Moore