

Canterbury District Local Plan Examination

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Dear Mr Verrall

As you will know I have been appointed to examine the Publication Draft Canterbury District Local Plan (LP). In the initial part of my examination my primary focus has been on the duty to co-operate and certain specific strategic matters which experience has shown can result in fundamental problems with a plan. Accordingly, my preliminary read through the LP and assessment of background documents and representations has been directed to these considerations. As a result I have a number of initial queries to which I am seeking your response. I stress that this is without prejudice to anything that may need to be explored later in the examination, including at the hearings, and that it does not cover all the points on which I may need further information or clarification in due course.

Duty to co-operate

Amended section 20(7B) of the 2004 Act establishes that the duty to co-operate is incapable of modification at examination. It is therefore important that this is considered at an early stage because if the legal requirement is not fulfilled then an Inspector has no choice other than to recommend non-adoption of a local plan.

The Council will be aware that the national Planning Practice Guidance (PPG) (ID 9-019-20140306) deals with the situation where evidence suggests that a local planning authority's planning strategy cannot be fully delivered because it has been unable to secure the co-operation of another local planning authority. It indicates that if local planning authorities are unable to provide robust evidence to support a strategy that does not meet unmet requirements of another local planning authority they may fail the test of compliance with the duty to co-operate or the plan may be found unsound. The PPG goes on (ID 9-020-20140306) to restate national policy in the National Planning Policy Framework ('the Framework' - para 182) – that the plan should be positively prepared, meeting unmet requirements from neighbouring authorities where it is reasonable to do so. Where there is robust evidence of an unmet requirement identified in a Strategic Housing Market Assessment (SHMA), other authorities in the housing

market area are required to consider the implications, including the need to review their housing policies.

In Topic Paper 5: Duty to Co-operate Statement (CDLP 3.6) the Council points to the joint working with other East Kent authorities, particularly in relation to regeneration matters. There is evidence of past collaboration on housing with a joint SHMA (CDLP 5.1) published in 2009. However, there is limited information on joint working on housing after that. The SHMA itself is mainly concerned with affordable housing needs rather than the total housing requirement for the area. Is there any more evidence of recent co-operation on strategic housing matters?

The Topic Paper (para 5.3) states that it is now largely the intention of the East Kent Councils to meet their own housing requirements. On what basis was it decided that a joint approach was no longer appropriate, particularly as it appears that one Council considers that it is unable to achieve this? Is the East Kent area regarded as the appropriate housing market area to which the requirements of Framework para 47 would apply and, if so, why was it decided not to update the SHMA but to address only the needs of Canterbury in the further work undertaken by Nathaniel Lichfield and Partners (NLP)? I note that the SHMA identifies a number of smaller local housing market areas within the City Council area and East Kent generally.

Topic Paper 5 records a request from Swale Borough Council to accommodate some of Swale's housing requirement, as that Council's emerging local plan provides for only 540 dwellings per annum (dpa) against objectively assessed needs of 740 dpa. A similar request has been sent to other neighbouring authorities. The Topic Paper indicates that there have been meetings between the two Councils but that it was not possible to reach an agreed position. In this context, I should be grateful for a copy of the following:

- Swale's initial letter to neighbouring authorities. What evidence did Swale put forward to Canterbury in support of their request?
- Canterbury's response to Swale.
- Any notes or minutes of the meetings that took place between the two authorities.

Topic Paper 3 states that none of the other Councils approached have indicated at this time that they are able to assist in meeting the Swale shortfall. Could you confirm that they have formally responded to Swale's request in those terms? The proposal not to meet objectively assessed housing needs was in Swale's Preferred Option Draft Local

Plan. Is there any indication as to whether that Council intends to carry this forward in the submission version? I note Canterbury's view that Swale should look at other housing distribution options in the Borough and review the constraints on meeting need that have been identified.

The table on pages 9-10 of Topic Paper 5 seeks to show that Councils in the East Kent area are meeting housing needs for the area overall. However, in so far as that could be a justification for not addressing Swale's unmet needs, it is not clear how relevant to the housing market area some of the Councils would be where they are more remote from Swale. I note that Maidstone and Medway are neighbouring authorities to Swale that were approached by them but are not part of the East Kent area. I should be grateful for your comments on the relevance of the table to Swale's unmet needs.

In its representations on the submitted LP Swale have indicated that they understand Canterbury's response to its request and do not wish to dispute the evidence upon which has been made. However, they also refer to possible further analysis of overlaps between the respective housing market areas. Has any work on this been undertaken?

In Topic Paper 3 (para 5.6) the Council gives 4 reasons as to why it is unable to assist Swale. I am seeking the Council's further comments on aspects of these reasons which I have set out below.

- The Sustainability Appraisal indicates that Scenario E of 780 dpa represents the best balance between social, economic and environmental criteria. However, meeting unmet needs from elsewhere, and the social and economic benefits of that, were not factored into the appraisal. Furthermore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The policies in the Framework taken as a whole constitute the Government's view of what sustainable development means in practice. In para 14 the Framework explains the presumption in favour of sustainable development, indicating that local plans should meet objectively assessed needs. The exceptions are where any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or where specific policies in the Framework indicate development should be restricted. It does not refer to seeking a balance between different factors. I should be grateful for the

Council's views therefore as to how the 'balance' sought in the LP relates to the step by step approach set out in the Framework.

- The Development Requirements Study (CDLP 1.6) concludes that the 'upper end' scenarios (F, J and I) would represent a significant increase over past development rates, resulting in "inevitable questions over whether such a scale of development is achievable... (and) over the ability of the market to bring forward such a scale of development". However, what evidence is there to support this assertion? As the Framework is seeking to boost significantly the supply of housing (para 47), it could be expected that home building would be at materially higher levels than in the past.
- The Habitat Regulations scoping report (CDLP 10.8) concludes that the development proposed in the LP is not likely to result in significant effects on European sites. Nevertheless, you consider that accommodating unmet housing needs from Swale would be likely to increase the risk that such effects would arise. Notwithstanding my queries on that report, below, what evidence can you draw on to support this view? Is there evidence to suggest that a ceiling of some kind in terms of impacts on European sites is being reached whereby no unmet needs from elsewhere could be addressed in the District?
- Finally, the Topic Paper indicates that an analysis of the SHLAA shows that there are no sites that could serve the needs of Swale. I should be grateful for the details of this. What criteria were used to determine whether or not sites would be appropriate to serve Swale and which sites were considered? Is there any reason to suggest that there are no additional sites not identified in the SHLAA that might be included?

In representations on the submitted LP concern has been expressed that account has not been taken of the housing needs of London. It is stated that London cannot meet its objectively assessed housing needs and therefore has to look at whether they could be accommodated within its commuter belt, including potentially at Canterbury. I note that the hearings into the Examination of the Further Alterations to the London Plan were concluded recently. Has the Council been approached by the Mayor or Greater London Authority with a view to accommodating some of London's housing needs? If so I should be grateful for a copy of the relevant correspondence and, in any event, for the Council's comments on this matter in terms of the duty to co-operate.

Meeting objectively assessed housing needs

The Framework aims to boost significantly the supply of housing. To this end it requires

that local planning authorities should use their evidence base to ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. It is a soundness requirement of the Framework that the LP should seek to meet objectively assessed development and infrastructure requirements where it is reasonable to do so and consistent with achieving sustainable development. In the first instance therefore it is important that the objectively assessed housing needs of the housing market area are established.

I note that it is a plan objective (p11) to provide sufficient housing to meet *local* housing need and support economic growth. I should be grateful for an explanation of what is meant by 'local' in the context of the Framework requirements.

The Council relies on the NLP Development Requirements Study (DRS) (CDLP 1.6) and has concluded that Scenario E is the most appropriate, resulting in a need for 780 dpa. This is based on the Council's preferred scenario from the Canterbury Futures Study (CDLP 1.9 and 1.10). It includes an emphasis on creating the conditions for the knowledge-based and leisure economies to establish and grow. On the face of it, therefore, the housing figure appears to be derived from a policy aspiration. That is not to say that this figure cannot be the outcome of an objective assessment of need, but it must be based on facts and unbiased evidence (PPG - ID 2a-004-20140306).

The PPG indicates that the household projections produced by the Department for Communities and Local Government (CLG) should provide the starting point estimate of overall housing need (ID 2a-015-20140306). Account should also be taken of the most recent demographic evidence (ID 2a-017-20140306). Scenario E is described in the DRS (para 8.6) as "a rate of demographic and housing growth only slightly below that inferred by the ONS and CLG 2008-based population and household projections". However, the DRS was prepared before the most recent projections based on results from the 2011 Census. The interim 2011-based CLG projections show housing need of 840 dpa to 2021. Since they were published, the Office for National Statistics has produced 2012-based sub national population projections which will input into CLG household projections for the same base year, not yet published.

Although the position with regard to post Census CLG sub-national household projections to 2031 is not yet resolved, the approach in the PPG is to consider whether

the national forecasts should be adjusted to reflect factors affecting local demography and household formation rates which are not captured in past trends. In para 4.26 of Topic Paper 2: Housing you refer to initial analysis by Kent County Council of the possible implications of the 2012-based population projections which anticipates a significant fall from previous figures. Is this analysis available and if so could you provide me with a copy? What specific factors, if any, would the Council refer to in considering adjustments to national projections? How has the Council taken account of market signals in relation to the household projections (PPG ID 2a-019-20140306)?

The Non Technical Summary included in the DRS states that the Upper Mid Range Band within which Scenario E sits is associated with the prevailing view on the economic potential of Canterbury and of meeting the level of development associated with past trends of migration and demographic change generally in the District. It goes on to record that the Band would “increase housing supply markedly to *go some way to meeting needs* and tackling affordability problems in the District” (my emphasis). The Framework requires that plans meet *full* objectively assessed needs. Can the Council reconcile what appears on the face of it to imply a shortfall in meeting the Framework requirements?

The Council has indicated that, whereas its housing needs survey in 2009 identified an annual requirement for 1,104 new affordable homes, a review of allocation policies has sharply reduced the number of households on the housing register (Topic Paper 2, paras 3.6 to 3.8). In this context, what would be the Council’s view as to the appropriate figure for annual affordable housing need and how would that relate to the overall housing requirement? A key factor in the lower figure is a change to the residency requirement for the register. In which case how are the needs of those who do not achieve this being recognised and addressed? Is there a distinction to be made between the local authority waiting list and the underlying affordable housing need?

Habitats Regulations Assessment

The Council’s report to inform screening for Appropriate Assessment (CDLP 10.8) concludes that the LP as submitted is not likely to result in significant effects on European sites. Accordingly an Appropriate Assessment of the LP is not required. However, Natural England in their representations advise that they are not satisfied with this report as there is insufficient information to allow a conclusion of no significant

effect on internationally designated sites to be drawn. They consider that the plan is not currently sound on the grounds that it is not consistent with national policy. They are nevertheless confident that these issues can be overcome.

I attach significant weight to the views of Natural England as they are the appropriate conservation body under the Habitats Regulations. In Topic Paper No 3 (CDLP 10.4) you have indicated that you have been working with Natural England and other relevant organisations to resolve these issues. Additional research has been undertaken. In relation to each of the European sites potentially affected you indicate that Natural England agrees with the conclusions set out in the Topic Paper based on their responses as set out in an email. However, I need to be satisfied that Natural England are able to withdraw the concerns in their representations and that, in the light of the new evidence, that they consider the plan as submitted to be sound. I should therefore be grateful if you could obtain formal reassurance from them in this regard.

I recognise that the Council has submitted what it considers to be a sound plan and that at this point I have not been asked by the Council to recommend any main modifications that might be necessary to make the plan sound or legally compliant. However, if Natural England's withdrawal of their concerns is contingent on main modifications being made I should be grateful for the suggested wording of those, which you might want to agree with them. I note that Natural England suggested several modifications to the plan in its representations but many of these may be minor and not relevant to my consideration of soundness.

Conclusion

As I indicated at the beginning of this letter, my initial consideration of the plan and its supporting evidence has been selective and directed at these particular matters. If the answers to some of my queries can be found in a core document then please direct me to the relevant paragraphs. I stress that the queries do not mean that I have concluded that the LP is unsound or is not legally compliant at this point.

I should be grateful for a prompt reply as the points I have raised are mainly seeking clarification and explanation. The Council should already have submitted the evidence on which it is relying. However, making allowance for the Christmas period, a response

by Friday 16 January 2015 at the latest would be appropriate, unless there are particular reasons why the Council would need more time.

M J Moore

Inspector

Examination Inspector: Mike Moore BA (Hons) MRTPI CMILT

MCIHT
