**Canterbury District Local Plan: According with the Local Development Scheme (Legal Requirements)**

**Council note to Inspector Mike Moore BA (Hons) MRTPI CMILT MCIHT in relation to the further submissions on the LDS**

1. This document provides the Council’s response to the further submissions and representations made by participants in the local plan examination.
2. This follows the submission by the Council of additional information with regard to the status of the local development scheme, in the context of whether the Council has complied with s. 19(1) of Planning and Compulsory Purchase Act 2004, which requires local plans (and all LDDS) to be “prepared in accordance with the local development scheme.”
3. Further submissions have been received by Mr Baker and ACRA.

Legal Status

1. The matter of the legal status of the Council’s LDS has been raised in particular by Mr Baker and was debated before the examination on 14 July 2014, Day 1of the examination, and indeed the examination was reminded of the requirement under s 15 (7) of Planning and Compulsory Purchase Act 2004 that to bring an LDS into effect, the local planning authority “*must resolve that the scheme is to have effect and in the resolution specify the date from which the scheme is to have effect*.”
2. The Council undertook to investigate further whether it has complied with s.15(7) following which it acknowledged and announced to the examination that the procedure adopted for bringing its most recent version of the LDS had indeed not complied with s.15(7).
3. The effect of this is that the LDS was still a draft document and the Council clearly needed to comply with s.15(7) to have a formal LDS. As a result the Council invoked the relevant powers and held a meeting on Thursday 23 July 2015. The report in respect of which was placed before the examination on 22nd July 2015 prior to that meeting.
4. This report sets out the history of the LDS. In addition further historical documents were placed before the examination on 23 July 2015 following requests made by Revd Wilson.
5. Following the meeting of the Council on Thursday 23 July the Council resolved that the LDS is to have effect and the date specified is 23 July 2015. The meeting was held in public and sign off approved. The minutes will be a matter of public record once published (expected imminently).

Compliance with s.19

1. As a matter of course an LDS will have a number of iterations over time and will clearly change over the period of any plan’s preparation. This means therefore that a plan may begin being prepared when one version of the LDS is in place and may well end its preparation before or after other versions of the LDS. This is because it must be kept up to date.
2. An LDS sets out in particular what documents when prepared will comprise the Local Plan for the area and the proposed timing thereof. In addition, it is recognised that this provides a means of enabling local communities and interested parties to keep track of progress.
3. It is not a document that requires public consultation and comment.
4. It is inevitable that the requirement in s.19 can on the one hand only relate to the latest version of the LDS and on the other must contemplate that a plan can be treated as being prepared in accordance with a document that did not formally exist until much later in its preparation or indeed during its examination.
5. The LDS that has now been given effect was available publically in its draft form as of 26th November2014. In addition The LDS in all its iterations has been published on the Council’s website and copies made available to the public.
6. Both Mr Baker and ACRA take objection to the way that the Council has given effect to the LDS and complain that the community has not been involved in the process.
7. It is also unfortunate that Mr Baker was not present at the examination when the council openly conceded that he had been correct in that the LDS required a formal resolution that could not be carried out on the Council’s behalf by a Steering Group.
8. It is not however accepted that CCC’s actions to ensure that it has complied with its statutory duty under s.15 is in some way unlawful. The Council has such powers available to it and it was a mistake that clearly needed attention and rectification.
9. It is not accepted that the Council has acted unlawfully in the way suggested by Mr Baker or at all in this regard.
10. It is also not accepted that Mr Baker is correct in his implications that a plan can only be treated as being prepared in accordance with a document that has remained the same throughout and/or that the preparation of a plan must be delayed and re-consulted upon every time the LDS is updated.
11. As such the Council can say it has had regard to whichever LDS has been in existence (even in draft form) and has prepared the plan in accordance with the latest version. The Inspector can therefore conclude that the requirement under s.19(1) of the PCPA 04 that the plan has been prepared in accordance with the LDS has been met.