Canterbury District Local Plan
Note on main outcomes of Stage 1 hearings

Introduction

1. There are two broad matters that are crucial to the next steps in my Examination, potentially affecting the timetable, including the Stage 2 hearings scheduled to commence at the end of September. Firstly, there are some matters of legal compliance, including those relating to the Sustainability Appraisal, which could impact on progress. Secondly, the Council has accepted on its own calculation that it does not have a 5-year housing land supply. It is considering as a matter of priority how that might be remedied having regard to the relationship between key sites, critical infrastructure and viability. However, my conclusions on, amongst other things, the appropriate figure for objectively assessed housing needs and the method of calculating the land supply will have implications for that work which the Council would need to take on board.

2. In that context, this note is limited to these matters, containing sufficient detail to explain my conclusions where it is necessary to do so at this point. My full reasoning will be included in my report to the Council. There are of course also a wide range of other matters considered under Stage 1 of the Examination, including aspects to which the Council is giving further attention. I have not dealt with those here as they will be addressed as appropriate in my report.

Sustainability Appraisal

3. The Plan was submitted with a Sustainability Appraisal (SA), June 2014, prepared by AMEC Environment & Infrastructure Ltd. My principal consideration is whether it amounts to reliable evidence underpinning the selection of the spatial strategy and the allocated sites. The main comments relating to the SA concern the approach to the consideration of alternatives, whether a 'paper chase' is required to understand the SA, the selection of the preferred sites, cumulative effects of development and transport, and the description of the environmental characteristics of the area.

4. In 2010 the Council appraised 9 broad spatial strategy options in the Core Strategy SA. An option that combined elements of 5 of these was considered the most appropriate basis for further consideration. The Council then produced a Development Requirements Study (DRS) which included 10 different scenarios for the amount of development. These were appraised against the 16 SA objectives and a preferred scenario selected. Whereas the DRS was not accompanied by a compliant SA there was an appraisal in a Technical Note which used the same methodology as the subsequent SAs.

5. The quantum of development chosen from the DRS was substantially greater than that used in the initial spatial alternatives. Representations have been made suggesting that the preferred spatial option should have been revisited in that context. However, the Council undertook an appraisal of the Preferred Option Local Plan in 2013 which included two alternative

configurations of sites - 'Canterbury Focus' and 'Coastal Towns and Hersden Focus'. The process by which the Plan has evolved and the alternatives considered is set out in both the 2013 and 2014 SAs. The Plan has been assessed against reasonable alternatives.

6. The evolution of the submission Plan has taken place over a number of years from the Core Strategy Development Options in 2010. Accordingly, there have been various iterations with SA work taking place alongside them. This is summarised in the submitted SA which includes the findings and the reasons for selecting preferred options. It does not contain all the detail of earlier documents but provides sufficient information for it to be understood how the submission Plan had been derived. This could not be described as an extended paper chase.

7. The SA sets out the process by which sites were selected in terms of their relationship with the overall spatial strategy, having regard in particular to transport and infrastructure delivery considerations and the relationship with other Plan policies. 181 sites were appraised in the first instance and another 19 added following the Preferred Options consultation and all were appraised in the same manner against the 16 SA objectives.

8. Reference has been made to possible errors and inconsistencies in the way that different sites have been scored in the SA, arguably to the disadvantage of some strategic omission sites. The SA has been prepared over a long period and it is inevitable that some circumstances may change and some errors may occur. However, these do not significantly undermine the reliability of the SA. I have considered further the position of some of the strategic omission sites, below.

9. The cumulative effects of the Plan as a whole are identified in section 3.5 and Table 3.15 of the SA. This includes the effects on the transport SA objective. The cumulative effects of policies are assessed on a chapter by chapter basis with commentary where appropriate.

10. The SA includes a summary of the key sustainability issues for Canterbury, describing its environmental characteristics in some detail. It cannot reasonably be characterised as lacking in this regard. Overall, the SA is a reliable part of the evidence base.

Habitats Regulations Assessment

11. The Council undertook a screening assessment of the Plan in July 2014 which concluded that there were some aspects which, if unchanged, could result in significant effects and therefore require an appropriate assessment in accordance with the Habitats Regulations. As a result, Natural England (NE) had raised concerns with the submission Plan. The Council then produced Topic Paper 3: Habitat Regulations Issues which included additional evidence. NE and the Council agreed a Statement of Common Ground incorporating suggested main modifications to the Plan on the basis of which NE were able to conclude that the Plan would have no likely significant effects.

12. It is contended that the wording of Policies SP7 and LB5 is such that it permits the possibility of likely significant effects and therefore an appropriate assessment should have been undertaken. However, the evidence shows that the likelihood of significant effects is sufficiently low that an appropriate assessment is not required.

13. There is some confusion over the relationship between the July 2014 screening and Topic Paper 3. NE has suggested that for clarity they should be brought together and in my view this would be beneficial so that the process undertaken and its outcomes are readily understood. Overall, however I consider that the Council has complied with the legal requirements in respect of the Habitats Regulations.

Other legal compliance matters

14. The latest version of the Local Development Scheme had not been formally adopted but this has been remedied by securing approval at the full Council meeting on 23 July 2015.

15. General concern has been expressed at the Council's consultation process including at the number of documents produced by the Council after consultation on the submission Plan had taken place. On the evidence before me the Council has generally followed the principles set out in its adopted Statement of Community Involvement (2007). Although this predated the Framework it accords with its aim of engaging a wide section of the community.

16. It is evident that many of the documents specified had been published prior to the June 2014 consultation and would appear to comply with the requirements of the Regulations. Some of the documents produced after consultation (for example, the Topic Papers) were drawing together the Council's case from other published information. It is inevitable that as part of a process of seeking to resolve objections or concerns there will be some further documents produced and new information will become available. In accordance with my Examination Guidance notes participants were able to comment on the implications of the additional documents in their further written statements to the Examination. In some instances they featured in my list of questions. Many have taken that opportunity and their views are being taken into account in my consideration of the Plan.

Objectively Assessed Housing Needs

17. The National Planning Policy Framework ('the Framework') requires that a Local Plan should meet the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area. The Council's Strategic Housing Market Assessment was produced jointly with other east Kent authorities but dates from 2009. It shows a complex pattern of housing market areas mainly contained within each District but with some overlapping rural markets. However, following clarification from Swale Borough Council as to their approach to apparent unmet housing needs, the position of neighbouring authorities, confirmed at the hearings, is that they are all aiming to meet their needs within their own administrative areas.

Canterbury is also seeking to meet its own needs and as such those of any local housing market areas are capable of being addressed.

18. The possibility that London may not be able to accommodate all its housing needs arose in the Report of the Inspector who examined the Further Alterations to the London Plan, published in November 2014. The Mayor/Greater London Authority have begun a process of dialogue with Councils in the South East in which Canterbury are participating and will no doubt continue to do so as appropriate. However, the aim of boosting significantly the supply of housing would not be best served by delaying the Plan until it is clear whether Canterbury should be in receipt of any unmet needs. This should be considered in a future review of the Plan if necessary.

19. The Plan provides for 15,600 dwellings over the period 2011 to 2031 - 780 dwellings per annum (dpa). This was initially based on Scenario E of the DRS undertaken in 2012 by Nathaniel Lichfield and Partners (NLP). In the context of the requirements of the Framework and the publication of 2012-based Sub National Household Projections (SNHP) in 2015, NLP undertook a Housing Needs Review (HNR) dated April 2015. The national Planning Practice Guidance (PPG) confirms that the SNHP are the starting point estimate of overall housing need. In the case of Canterbury this amounts to an annual increase of 597 new households between 2012 and 2031. Allowing for vacancy and second homes NLP convert this to 620 dpa and there is no evidence that would lead me to a different conclusion.

20. The PPG indicates that the housing need number suggested by household projections should be adjusted to reflect appropriate market signals. The HNR identifies problems with house prices, rents and affordability in Canterbury compared to England and Kent. An uplift of 10% to reflect a modest pressure of market signals has been used by Inspectors in other examinations. However, here NLP conclude that the scale of market signal pressure is greater than modest, such that on reasonable assumptions the uplift should be more than 10% with 20% used by way of illustration to give a need figure of 744 dpa.

21. The HNR has updated two of the economic-led scenarios that were part of the 2012 Development Requirements Study. The housing need is increased to 717 dpa to bring it in line with the unconstrained projections of employment growth used in the earlier study and to 803 dpa to reflect the higher job growth associated with Scenario E.

22. The SNHP show lower rates of household formation than earlier national projections, most likely due to the reduced rates of household formation seen through the recession. To carry this trend forward might result in some needs not being addressed. To reflect this NLP have modelled a 'partial catch-up' scenario taking effect from 2018 assuming higher rates of household formation and resulting in a 6% increase in needs to between 744 and 853 dpa.

23. Following the approach set out in the PPG, the HNR identifies a range of affordable housing needs of between 490 and 740 dpa. To deliver this based on the proportion of affordable housing (30%) sought in the Plan would

require between 1,623 and 2,467 dpa, an amount far in excess of the overall needs identified in the HNR. There is no persuasive evidence that the housing market would support this scale of building. I consider that simply increasing housing provision in the Plan to these levels would not be an effective way of addressing affordable needs.

24. In the light of these considerations, NLP conclude that full OAN are likely to most reasonably fall with a range of between 744 and 853 dpa. 803 dpa is within the middle of the range and may be seen as an appropriate measure of full OAN. NLP indicate that this may be seen as equivalent to the 780 dpa scenario used to inform the requirement in the Plan.

25. While other projections of housing need, both higher and lower, were put before the Examination I am satisfied that the HNR is a technically competent and robust basis on which to determine the OAN and that the range it has identified has been justified. However, within that the amount of uplift to be applied to the starting point estimate is a matter of judgement. Although the Council's preferred figure of 780 dpa falls within the HNR range it does not flow from its results. The market signals uplift of 20% is a very significant one and there would be a degree of overlap between that and some of the other assumptions. In that context, figures in the upper end of the range would not be appropriate. The middle range figure of 803 dwellings identified by NLP would be almost 30% higher than the 620 dpa starting point.

26. Taking these factors in the round it seems to me that 803 dpa would achieve an uplift that took reasonable account of market signals, economic factors, a return to higher rates of household formation and affordable housing needs. Accordingly, it represents the full OAN for the Plan area. It should be rounded to 800 dpa for the purposes of the Plan – a further 400 dwellings over the Plan period (16,000 in total). I note that the Plan as submitted provides for sites in excess of that figure.

Calculation of the 5-year housing land supply

Overall position

27. On submission of the plan the Council calculated that it had 6.4 years supply of housing land. However, in May 2015 the Council and Kent County Council, as highway authority, agreed a position statement concerning the Sturry crossing and relief road. The effect of this would be that a number of the strategic housing allocations could not come forward until the relief road was constructed. Accordingly, taking account of various other adjustments, the Council recalculated the land supply as 5.26 years in its further statement on Main Matter 2 – Housing Strategy. However, following discussions at the hearings the Council revisited its calculation and some of the assumptions. The reworked figure shows about 4.2 years supply against the Council's OAN of 780 dpa and would self-evidently be less against my figure of 800 dpa.

Buffer

28. The Framework requires that the Council should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements with an additional appropriate buffer.

29. In line with many other Councils, house completions in Canterbury dropped back significantly after 2008/09 due to the recession. Recent completion rates have been below that envisaged in the Local Plan. However, variations around the annual requirement are to be expected. Taking the longer term view, including both peaks and troughs of the housing market cycle, and measured against the requirements of the former South East Plan which was operative over much of this time, the Council had a good record of cumulative delivery. In this context, there has not been persistent under delivery of housing and the Council's assumption of a 5% buffer is justified. The buffer should be added to the 5 year requirement including the shortfall.

Shortfall in early years

30. As up to date information to 2015 has not yet been assembled, the land supply has been assessed as at March 2014. There is a shortfall against the requirement in the early years of the Plan period 2011-14. The Council has sought to meet this past undersupply across the whole of the remaining Plan period (the 'Liverpool' method). However, the PPG indicates that this should be dealt with in the first 5 years of the plan period where possible (the 'Sedgefield' method).

31. The Council points to the reliance of a number of the strategic housing allocations on critical infrastructure, including the Sturry relief road, which would mean slower delivery in the short term. The 10 strategic allocations would provide over 65% of the Council's housing requirement figure over the Plan period and if endorsed would help to secure the local boost in the supply of housing that the Government is seeking.

32. The Council's difficulties with the land supply have largely arisen very recently due to unanticipated problems with key infrastructure. If it was now to look to neighbouring authorities to assist this would delay the Plan and overall would be unlikely to lead to an early resolution of the undersupply.

33. The shortfall is over 700 dwellings – not far short of the annual requirement for the Plan period as a whole. Given the likely lead times on any new sites coming forward, if Sedgefield were to be used the shortfall would not be materially addressed until years 4 and 5 of the period. The Council's trajectory already shows a very significant increase in completions in those years. If the full shortfall were added then in my estimation the completions in those years would be substantially higher than ever achieved over the last 20 years, including at the top of the market. Notwithstanding that the land supply may have been restricted in the past, the likely difference is so large that I consider that it would be an unrealistic assumption even if more sites were allocated.

34. The PPG allows the possibility that a method other than Sedgefield could be used. In this case the need for a realistic approach points to the Liverpool method as means of securing the aspiration of addressing the past shortfall.

Windfalls

35. Windfall sites can be taken into account in the 5 year land supply if there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. In this case the Council has shown that windfalls have accounted for almost 49% of all completions since 1993. However, this should be treated with some caution as windfalls are sites not identified as available in the Local Plan process. Rates can therefore depend on the provisions of the development plan and its age. In this case the saved policies of the extant Local Plan date from 2006.

36. In that context, the Council has proposed a windfall allowance of 138 dpa for small sites only (less than 5 units) based on the rate achieved between 2006 and 2014 and excluding garden land. No allowance is made for larger sites which have made a significant contribution to supply in the past. Certain changes of use to residential are now permitted development. In its most recent calculation of the land supply the Council has removed windfall completions from the first 3 years of the 5 year period as these are most likely to be included already as planning permissions. In the light of these considerations the Council's windfall allowance is clearly justified.

Lapsed planning permissions

37. The Council has not made any provision for the possibility that some existing planning permissions may lapse. There is no requirement for this in either the Framework or the PPG. No evidence has been presented on fallout rates. In the light of the conservative assumption made about windfalls I consider that a specific estimate of lapsed permissions is not necessary in this case.

Sites

38. Sites in the 5-year land supply must be deliverable. This means meeting the requirements of footnote 11 on page 12 of the Framework. The PPG indicates that there needs to be robust, up to date evidence to support the deliverability of sites. The Council has already adjusted its land supply calculation to take a more realistic view of some sites – for example the Council car parks.

39. In seeking to address the land supply problem identified during the hearings the Council must have regard to these requirements. It was in discussion with the County Council and landowners/developers about how to address the implications of the need for the Sturry relief road so that starts could potentially be made on various strategic allocations that could contribute to the land supply. I return to the relationship between infrastructure and development again, below.

40. In the alternative, or possibly in addition to this approach if it did not result in a 5 year land supply, the Council should consider whether there are other sustainable sites that are capable of early delivery. This could include consideration of some of the strategic omission sites or other smaller SHLAA sites where an early start could be made and which do not impact materially on traffic conditions at Sturry. In that regard, the evidence suggests that some of the factors which led to some of the strategic omission sites being excluded from the Plan may have changed as follows:

    - Land south of John Wilson Business Park, Chestfield – I agree with the conclusions of the 2006 Local Plan Inspector in terms of the access to and accessibility of the site.

    - Former colliery land south of the A28, Island Road, Hersden – This site would be affected by the Sturry relief road issue. The definition of previously developed land in the Framework is that which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. However, land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time is excluded. The 2006 Local Plan Inspector concluded that the land was previously developed and likely to remain so for many years to come. Nonetheless, the colliery operation ceased over 40 years ago. On my visit to the site I saw that there are parts that are now significantly overgrown. There is only one small building on the main part of the site. On the other hand, there are areas of hardstanding and considerable parts have a degraded quality with rubble or waste evident. Overall, in my view it can still be considered as brownfield land. The Council's main concern was the effect of development here on the countryside and biodiversity but the site promoters have received letters from NE, the Kent Wildlife Trust and GeoConservation Kent which indicate that they have no in principle objection to its development.

    - 'New Thannington' (SHLAA site 70) – the site boundary has been adjusted so that it is more than 250m from Larkey Vale SSSI.

41. This does not mean that it is appropriate for these sites to be included in the Plan but the Council should consider whether this affects its judgements about them based on the SA and explain its conclusions. There may of course be other sites that are sustainable and capable of early delivery.

    Conclusion

42. I am satisfied that the methodology used by the Council in calculating the 5-year land supply is sound. However, if the information is available it should update this to a 2015 base. In any event, the calculation should be reworked based on an OAN of 800 dpa. In terms of the sites that make up the supply any links with infrastructure need to be justified and deliverability demonstrated in Framework terms.

Infrastructure

43. In its further statement the Council identified a number of elements of transport infrastructure as being critical to delivery of the Plan and which are linked to the strategic site allocations In the case of the Sturry relief road, in May 2015 the Council had agreed a position statement with Kent County Council whereby the road would be delivered in conjunction with the development of Site 2 at Broad Oak/Sturry with financial contributions from other sites as proposed in the submitted Plan no longer being required. However, until the road was completed there would be an embargo on development commencing at Herne Bay sites 3, 4 and 5, the land north of Hersden site 8 and the smaller site at Bullockstone Road, Herne Bay. The revised housing trajectory shows no starts on the 3,390 dwellings proposed at these sites until 2020-21 or 2022-23. They previously had been expected to contribute to the 5-year land supply and their deferment partly explains the Council's difficulties in this regard.

44. The Framework requires that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. As such, it must be demonstrated that the traffic produced by developments proposed in the plan would have a severe impact if allocations are to be phased or delayed until transport infrastructure is delivered. The presence of an existing congested network is not of itself evidence that adding some additional traffic would have a severe impact. The justification in the evidence base for the Sturry (and Herne) relief roads is limited. If the Council intends to maintain the position it had agreed with the County Council there needs to be robust evidence that this would be the case.

45. The Council was hopeful that the further discussions with the County Council and the promoters of the various affected strategic allocations might achieve an agreed way forward within a few weeks which would enable early commencement of these sites. However, it remains to be seen whether an effective and appropriate agreement can be reached.

46. As I understand it the intention would be to revert to the position in the submission Plan whereby other sites would be able to contribute proportionately to the Sturry relief road and as a consequence, subject to other planning considerations, development of those allocations could commence in time to contribute to the 5 year supply. Presumably, the issues that gave rise to the position statement in the first instance would be satisfactorily addressed in some way.

47. If that were to be the Council's preference then it would need to be demonstrated that the contributions required were proportionate to the impact of the development on the current issues at Sturry (in the context of the policy requirements of Framework paragraph 204 and the legal requirements of Community Infrastructure Levy (CIL) Regulation 122). In that context, it must also be demonstrated that any pooling of contributions made through s106 agreements would not breach the limitations imposed by CIL Regulation 123. Although I was informed that it is the Council's intention to introduce CIL once the Plan is adopted, there is no formal

Committee resolution to this effect. There is therefore some doubt as to whether this would occur and in any event there was some indication at the hearings that the Council may not wish to levy CIL on the strategic allocations.

48. The Herne relief road is proposed to be provided as part of site 5 with financial contributions from other sites. While it has not been suggested that there should be any embargo on development until it is built, there needs to be clarity over the case for the road and its relationship with strategic allocations.

49. The A2 Wincheap off-slip and A28 Wincheap relief road are also identified by the Council as critical infrastructure. They are not related to new housing (and the 5-year land supply) but to commercial redevelopment of land mainly in the Council's control. At the hearings the Council indicated that it would provide further information on the viability of development at Wincheap in the context that the Council was accepting that a smaller amount of retail provision would be appropriate. It also agreed to provide details of the options as to how the park and ride system here would operate if part of the existing site was lost to the slip road.

Viability

50. Viability is a crucial aspect of site deliverability. The Viability Assessment (VA) undertaken by Adams Integra in relation to strategic allocations is mainly based on a site of 1,000 units. Further appraisals were carried out on a smaller site of 500 units and a larger one of 3,000 units. Amongst other things, allowances are made for infrastructure costs. However, the cost of the strategic infrastructure does not fall equally between the allocated sites, which vary in size from 300 to 4,000 units. Indeed the Council's suggested main modifications, submitted as a response to the Sturry relief road position statement, change the requirements for some sites to contribute to this.

51. The amount of affordable housing at a particular strategic allocation will in part depend on the infrastructure that it is expected to provide or contribute. It is not clear on the evidence before me that 30% affordable housing would be achievable on all the strategic allocations. In addressing the housing land supply issue and the relationship between individual sites and infrastructure the Council should also reassess whether the 30% provision is justified in all cases.

Overall conclusions and actions

52. To seek to remedy the matters identified above the Council should undertake or provide the following:

    a) A 5-year housing land supply calculation based on 800 dpa
    b) Evidence of the deliverability of the sites that make up the 5-year land supply in accordance with the requirements of para 47 of the Framework.

c) Evidence that in the Plan period as a whole 16,000 new homes could be achieved in accordance with the requirements of para 47 of the Framework.
d) A review of omission or SHLAA sites to assess whether there are any that are sustainable and could be brought forward quickly to contribute to the 5-year land supply.
e) If there are sites within the proposed 5-year land supply that are dependent on the Sturry or Herne relief roads then for each of those schemes there must be:
    - A robust justification
    - Details of cost, the sources of funding and evidence of the commitment to that funding from providers
    - Details of who will deliver the schemes
    - Details of the timescale for provision
f) Where a site is expected to make a proportionate financial contribution to the Sturry or Herne relief roads there must be a demonstration of the basis for that.
g) If pooling of financial contributions towards the Sturry or Herne relief roads is proposed it must be demonstrated that this is consistent with CIL Regulation 123.
h) A reassessment of whether 30% affordable housing is achievable on all the strategic allocations.
i) Details of the relationship between development and the funding of the Wincheap A2 off-slip and A28 Wincheap relief road in the context of less retail provision than anticipated in the Plan.
j) Details of park and ride provision at Wincheap if the off-slip and relief road are built.
k) Consultation with appropriate parties on the outcomes of the above.

53. Some of this is already in the evidence base, particularly the Infrastructure Delivery Plan, or has already been requested as a result of discussions at the hearings.

M J Moore
Inspector
7 August 2015