



Planning Policy Department
Canterbury City Council
Military Road
Canterbury
Kent
CT1 1YW

3 June 2024

Dear Sir or Madam,

DRAFT CANTERBURY DISTRICT COUNCIL LOCAL PLAN - REPRESENTATIONS TO DRAFT REGULATION 18 PLAN

1. We are pleased to submit, on behalf of our client Altira Park JV LLP (“the Partnership”), representations on the latest version of Canterbury City Council’s Draft Local Plan, which is undergoing another Regulation 18 consultation.
2. We commented on the previous Regulation 18 version was published in 2022. The current draft revises the 2022 version, and the plan period has been reduced to 2040, instead of 2045, and the housing target has been reduced by over 4,000 new homes.
3. Paragraph 35 of the National Planning Policy Framework (NPPF) (2023) states that local plans are ‘sound’ if they are:
 - Positively prepared
 - Justified
 - Effective
 - Consistent with national policy
4. The NPPF also advises that Plans should be succinct (paragraph 15). These representations have been drafted with this advice in mind.
5. Kitewood Estates Limited (‘Kitewood’) and Urban&Civic created the Partnership to work together to deliver an exciting mixed-use scheme at Altira Park and Blacksole Farm, located to the south-east of Herne Bay.
6. As well as responding to the previous Regulation 18 version of this Plan, we previously submitted representations on behalf of The Partnership to Canterbury City Council’s Issues and Options consultation in October 2020, and we promoted Altira Park in the Call for Sites consultation in July 2021 for mixed-use development.
7. Our client is keen to continue to work collaboratively with CCC to successfully invest and deliver high-quality, much needed residential, commercial and employment floorspace to benefit Herne Bay and the wider District.

Altira Park and Blacksole Farm

8. The Partnership controls the site and have successfully delivered the existing Sainsbury’s store, a petrol filling station and employment generating floorspace on the site, together with the Albert Hugo Friday pedestrian footbridge over the railway line to the north of Altira Park.



The bridge, together with the linkage through to Blacksole Farm, was installed significantly in advance of any requirement within the S106 for the original outline application for Altira Park and whilst delivered for the opening of the Sainsbury's store was not a requirement of the food store planning consent.

9. As part of this scheme, Kitewood has also dedicated a strip of land to KCC Highways adjacent to the Margate Road to enable the delivery of a footpath route.
10. The Partnership continue to be committed to delivering a wider masterplan for Altira Park and Blacksole Farm with an overarching vision to deliver a viable mixed-use scheme that will provide residential, commercial and employment floorspace. The Phase 1 of the masterplan involved the creation of a trade park which was granted planning permission on 18 August 2022 under planning permission ref. CA/22/01051. Despite the current challenging economic headwinds, work began on the delivery of the trade park in late 2022 and it is now completed and fully let.
11. The Partnership submitted two planning applications with the aim of delivering Phase 2 of the masterplan. Phase 2a comprises approximately 7,000sqm of commercial floorspace (application ref. CA/22/02660) and Phase 2b is delivering 67 new homes at Blacksole Farm (application ref. CA/22/02513). Consent for the 67 residential units was granted at Blacksole Farm in April 2023. These homes and the associated landscaping are currently being built by Kitewood for Moat Housing and will provide 49 units for affordable rent and 18 shared ownership houses. It is anticipated that the first residents will move in next year.
12. The Partnership received consent for a mixed-use scheme providing retail and commercial floorspace and a drive-thru McDonald's restaurant in December 2023. Unfortunately, challenging economic environment in terms of increased build and finance costs together with a reduction in the availability of finance and falling values have all contributed too reducing the schemes viability to a point where the development cannot proceed. However, the Partnership continues to work with operators to bring forward high quality, viable development.

Existing Site Allocation

13. As set out in previous representations submitted, Altira Park has been a location for employment development since the 1990s, with the employment designation being formalised in CCC's Local Plan adopted in July 2017. Blacksole Farm and 'Moynes,' the residential property to the south-east of Blacksole Farm, are also included within the Altira Park designation despite being in residential use, having never been in employment use that might need protection.
14. Much of the designated area has remained vacant and there has been limited interest in developing the site for employment uses despite continued marketing initiatives. In short, the current allocation is not effective because it does not provide sufficient flexibility to respond to the changing economic climate.
15. Paragraph 122 of the NPPF confirms that if there is no reasonable prospect of an application coming forward for the use allocated, LPAs should reallocate sites for more deliverable uses. Altira Park should be allocated for deliverable uses for which there is a need.
16. The proposed allocation in the previous Regulation 18 Plan was a significant improvement, but it still does not provide the flexibility to respond to market conditions.

17. It is appreciated that, in the latest version, our previous representations relating to heritage and phasing, have been acted upon, but the Partnership still have concerns that the draft allocation unnecessarily restricts development at Altira Park. In order to encourage investment and create jobs and opportunities, the allocation needs to allow further flexibility to ensure development comes forward on this important site.
18. Our representations are set out below.

Emerging Policy HB8 'Altira'

19. Emerging Policy HB8 of the Draft Local Plan continues to be an allocation for 'business and commercial-led mixed-use development' including commercial, business, employment and residential floorspace along with the provision of open space. We consider that Policy HB8 should be described as 'Altira Park and Blacksole Farm' and request that the reference to the allocation being 'business and commercial-led' is removed. Instead, the allocation should be referred to as 'mixed-use.'
20. The Partnership welcome and support the additional uses set out within the latest emerging allocation. However, given the importance of ensuring that the emerging allocation enables delivery of development at this site, more flexibility must be included in the allocation. It is particularly disappointing that the reference to leisure floorspace has been removed from Parcel A. This is unhelpful and leisure uses should be supported at Altira.
21. The Partnership would like to engage and work collaboratively with CCC on the following matters in relation to the emerging allocation.

Amendments to Proposed Parcel Allocations

22. The Partnership know the site very well and thus it understands its viability challenges. It has delivered investment and will continue to do so if the policy framework is flexible. The changes in ways in which people live, work, shop and spend their leisure time, and the increasing use of technology, means that development needs are evolving and changing more rapidly than ever. The dynamism of the commercial sector and the increasing costs of delivering development means that overly prescriptive planning designations can hamper and hinder investment and job creation. Policies and allocators must be flexible and support investment.
23. Historically, the prescriptive allocation in the adopted Local Plan (2017) has prevented and delayed investment and ultimately job creation and so we welcome the flexibility that the emerging policy provides for, but it needs to go further.
24. To ensure viability and delivery of development on the site, we request that there is enough flexibility on the proposed uses within the site allocation to react to changes to the market. Any use which creates new jobs and increases economic opportunities in the local area should be supported by the Council. It is clear from the slow development of the commercial, business and employment floorspace on the site, despite both local and national marketing campaigns, that any development will, and must, be occupier-led. Therefore, we require as much flexibility as possible to attract such occupiers to this part of Kent.
25. The separation of 'business,' 'commercial' and 'employment' uses (which are defined within the Glossary of the Draft Local Plan) in the site allocation is confusing and does not provide for the flexibility that will be required during the Plan period to ensure Altira Park will contribute positively, socially, and economically to Herne Bay.

26. The allocation should support 'economic development' and allow for residential related uses, such as a care or nursing home, to deliver a mix of uses on the site. Whilst we welcome the officers' approach that reflects the Partnership's previous masterplan and parcels that were promoted at an earlier stage, due to the everchanging market conditions, further flexibility is required to ensure that the site will be occupied, and jobs will be created up and until 2040, the end of the Plan period. We feel flexibility at this stage is better than prophecy to ensure investment and job creation.
27. We are not convinced that identifying 'parcels' helps. Parcels A, B, C, D and most of E have planning consents. Parcels D and the Blacksole Farm part of Parcel E are either built out, or are being built out. Parcel A and B have planning consent, but development is not viable for the consented uses. Therefore, the remaining parcels within Altira should be allocated for flexible economic development that creates jobs, including commercial, business and employment within Use Classes E (including leisure uses), B2 and B8, as well as other employment generating uses, including those falling into the sui generis class (such as a drive thru), and uses such as care or nursing home.
28. The consent for retailing and a drive-thru restaurant on Parcel A confirm that such uses are acceptable and appropriate on the site. Discussions are well advanced with David Lloyd leisure, Europe's leading premium health and wellness provider, which will create jobs and deliver an exceptional health and well-being facility for existing and new residents, whilst it will also attract visitors and challenge perceptions of Herne Bay. We would like to see Use Class E(d) specifically included in the definition of commercial uses provided in the Plan's glossary. The previous draft explicitly allowed leisure floorspace on Parcel A so if the glossary is not amended, specific reference to acceptability of commercial leisure uses at Altira should be included in Policy HB8.

Summary of the Allocation

29. All uses within Classes E (including E(d)), B2 and B8, as well as other uses that create jobs, including public houses, drive through restaurants and care and nursing facilities should be allowed at Altira Park.
30. The identified Parcels A, B and C should all be allocated for commercial, business, leisure, and employment floorspace and other uses that create jobs, and for avoidance of doubt, specific reference should be made to the appropriateness of drive thrus and builders' merchants as they are consented uses.
31. The Plan's glossary should include all uses within Class E within the definition of 'commercial use', as well as drive-thru restaurant and public houses or drinking establishments or car showrooms.
32. Moyne should be removed from the allocation and should be subject to a separate residential allocation.

Pedestrian and Cycle Access

33. As noted, the Partnership have already improved walking and cycling connectivity within Altira Park and to the surrounding area through the delivery of the Albert Hugo Friday Bridge, and Kitewood dedicating land to KCC Highways to deliver a footpath link along the Margate Road. These improvements were provided in the knowledge that further phases of the development

of Altira Park and Blacksole Farm would be coming forward. Further on- and off-site improvements to cycle and pedestrian access could be delivered through CIL funding and not additional unliked undertakings such as S106 contributions and planning conditions.

Housing Mix and Parcel E

34. The allocation has now reduced housing numbers from 70 to 67 dwellings to reflect the consent. However, this overlooks the inclusion within the allocation of Moyne. As noted, Moyne should be excluded from the Altira allocation. It should be allocated separately as a residential site capable of delivering around 7 dwellings.

Biodiversity Net Gain

35. Criterion 3(b) of the emerging Policy HB8 and emerging Policy DS21 'Supporting biodiversity recovery' requires a minimum of 20% biodiversity net gain calculated using the latest Natural England biodiversity metric (or alternative set out by the legislation) and taking consideration of any national or local guidance on what values/multipliers should be used.

36. The requirement of 20% biodiversity net gain is simply undeliverable and unnecessary, particularly on sites in the urban area. The costs relating to 20% biodiversity net gain will make schemes unviable.

37. The Environment Act 2021 requires planning permissions granted in England (with some exemptions) to deliver at least 10% biodiversity net gain. As it is, a 10% requirement it will affect the viability of commercial development, reduce the delivery of affordable housing when it is factored into viability assessments, and it will reduce housing delivery overall to make allowance for areas set aside for nature. It is also likely to increase service charges to pay for biodiversity management plans.

38. The emerging Policy should not double the biodiversity requirement. The Plan should not seek to go beyond the requirements of the Environment Act. This will ultimately result in undeliverable and unviable development, stunting the growth of Herne Bay.

39. The Partnership also requests that the Council clarifies what the implications are if biodiversity net gain in the form of the emerging policy envisages cannot be secured on a site. Furthermore, the Development Management policy sets out the biodiversity requirement and it, therefore, does not need to be repeated in site-specific policies and allocations.

The Golden Plover

40. For reasons that are not clear, an additional criterion, 3(c), has been added to the policy. Criterion 3(c) requires an assessment to be undertaken as to the site's potential to be 'functionally linked land for golden plover, in line with Policy DS17'.

41. There is no reference to golden plover in Policy DS17. We understand that in from May to September golden plover are found in upland moorland breeding grounds, moving to lowland farmland and coastal flats in winter. Given that Altira is in the urban area, this criterion should be omitted.

Emerging Employment Policies

Emerging Policy DS8 'Business and employment areas'

42. Emerging Policy DS8 'Business and employment areas' is overly prescriptive and complex. The policy should support economic development in urban areas, subject to the impact of development being acceptable, rather than seeking to limit employment development within and close to designated employment sites. The wording of the policy should be shortened and made simpler.
43. As the policy is currently drafted, Altira Park does not classify as a business and employment area despite its emerging allocation comprising 11,245sqm of business and employment floorspace. Therefore, any new employment development at Altira Park would need to be assessed against criterion 5 of emerging Policy DS8 as Altira Park would be considered as land outside of identified business and employments, but within a settlement boundary.
44. Criterion 5(a) requires "*demonstrable need for the development*" but does not state what this 'need' should be, or how it should be demonstrated. It goes without saying that an application would not be made unless there was a need, and therefore, the requirement to demonstrate need is unnecessary, and it will not contribute anything to the decision-making process.
45. Equally, the requirement to demonstrate that there are no suitable locations at designated employment sites (criterion 5(b)) is unnecessary and does not reflect national policy. It is seeking to introduce a sequential test for all employment uses that is not required by national policy and, therefore, the policy cannot be considered 'sound.'
46. Finally, criterion 7 is not justified. The Council should not force FTTP Infrastructure to be provided for schemes for which it is not required. If it is required, the developer will provide it.
47. In summary, emerging Policy DS8 is overly long and complex and appears to conflict with the NPPF paragraphs 85 and 86. The emerging policy should be redrafted to create conditions in which businesses can invest, expand, and adapt, with the emphasis being placed on supporting economic growth and productivity. At the very least, Criteria 5 to 7 should be omitted.

Emerging Retail Policies

Emerging Policy SS3 'Development Strategy for the District'

48. The floorspace figures should be identified as minimum figures. If more development is delivered, the Council should welcome the investment and jobs created. The floorspace figures must not be used to stifle investment. For example, the current consent at Altira Park provided 1,413sqm of comparison floorspace and 2,678sqm of convenience floorspace. In short, this exceeds the identified convenience retail "need" and over half the comparison retail "need" in the policy. Clearly, there was a need and demand for the floorspace that was consented as two operators wanted to locate in Herne Bay. Unfortunately, increases in interest rates, energy prices and build costs made the development unviable, but the demand (need) for the floorspace is and was clearly there.

Emerging Policy DS10 'Town Centres and Community Facilities'

49. Policy DS10 is overly prescriptive and complex, and conflicts with the NPPF. It should be redrafted to make it succinct and to comply with national policy.

50. In going beyond the requirements of national policy the emerging Plan is not positively prepared and does not support sustainable development. It seeks to increase complexity and create barriers to investment. We set out some specific concerns below.

Criterion 3(a)

51. This does not represent the sequential test as set out in the NPPF. As confirmed by the Newport appeal decision (see appeal ref. 2167505), the sequential test serves two functions:

- To encourage linked trips with town centre businesses; and
- To encourage the use of sustainable transport because town centres are usually more accessible.

52. Unless a site is likely to encourage a material increase in linked trips because it is nearer to a centre, it is not sequentially preferable. This should be clarified in the policy.

Criterion 3(b)

53. What constitutes flexibility in terms of format and scale needs to be explained in terms of the well-understood case law. This has confirmed that applicants need to demonstrate a 'reasonable' degree of flexibility, but the application must reflect the scheme the developer wants to develop in the 'real world,' and applicants should not be required to disaggregate developments.

Criterion 3(c)

54. The site does not need to be accessible and well connected to the nearest centre for the reasons set out above in respect of the sequential test. Sites should be accessible by choice of means of transport, but there is no need for good linkages to a town centre unless there is a good prospect of there being linked trips with that centre, as explained above.

Criterion 4

55. The impact test should not apply to all main town centre uses. The NPPF confirms that it only relates to retail and leisure uses. A requirement to assess impact for main town centre uses such as offices is impractical and raises the question what is the impact that is to be assessed. This requirement also conflicts with emerging Policy DS11 'Tourism Development' as hotels are a main town centre use. For the reasons set out in respect of emerging Policy SS3, the consideration of the floorspace totals set out in policy is not relevant and is unnecessary.

56. It is fundamentally wrong that development that fails the sequential approach and/or gives rise to significant adverse impacts must be refused. In any planning decision the conflict with policy must be weighed in the planning balance with other material considerations taken into in consideration. It may be that the benefits of a scheme outweigh the policy conflict and planning consent can be granted. In short, failure of the impact and/or sequential test does not automatically mean that an application must be refused. This text must be deleted as it is wrong in law.

Criterion 5

57. This part conflicts with criterion 4 because such locations are outside identified centre boundaries. At the very least, the criterion should state that shops below 500sqm will be supported.

Criterion 6 and 7 and the Loss of Shops

58. The Council cannot stop shops closing. It is well documented that bricks and mortar retailing is under significant pressure because of increased costs and competition from online shopping. The Council should take a more pragmatic and proactive approach to vacant units by encouraging alternative uses. Insisting that a unit remains vacant for two years will not benefit the centres or the communities that they serve. It is far more sensible to promote policies which encourage vacant units to be brought back into beneficial use. This is why the Government have introduced changes to the Use Classes Order and permitted development rights so former shops can be converted to other uses, including residential accommodation.
59. It is surprising if the Council is seeking in criterion 4 to prevent out-of-centre retail development, whilst in criterion 7, the Council is seeking to prevent the loss of out-of-centre retail facilities. Surely if the development of new out-of-centre facilities are unacceptable in policy terms, the Council should not seek to retain existing out-of-centre facilities.

Criterion 8

60. There is no justification to require all residential development over 10 units or 0.5ha (i.e. major development) to contribute to the improvement of 'local' (whatever this means) community halls if a new facility is not being provided on site. If residential development creates a need, there might be some justification. However, community facilities are covered by CIL payments, so this criterion should be omitted.

Criterion 10

61. There is no requirement to demonstrate need for new or improved recreational facilities. Indeed, it is not clear what a 'local' need means. This should be omitted.
62. The second part of criterion 10, dealing with the loss of provision, goes beyond the requirements of paragraph 103 of the NPPF. It should be redrafted to refer to 'buildings' rather than 'facilities', and reflect paragraph 103, not introduce new requirements.

Emerging Housing Policies

Emerging Policy DS1 'Affordable Housing'

63. Emerging Policy DS1 should clarify that when looking at viability for affordable housing, other costs, such as those associated with biodiversity net gain, will be taken into account.

Emerging Policy DS2 'Housing Mix'

64. The housing mix requirements as set out in the emerging Policy DS2 'Housing Mix' is overly prescriptive, and too rigid mix for proposed market housing and affordable housing. The housing mix tables should, particularly for market housing, be guidance rather than applied rigidly. Demand for different housing sizes varies throughout the District and between schemes. A 'one size fits all' approach can damage quality and viability. The suitability of proposed housing mix should be assessed on a site-by-site basis. It should be confirmed that the tables are to provide guidance, or flexibility and ranges for each dwelling size should be provided.

Emerging Policy DS6 'Sustainable Design'

65. In criterion 3, it unreasonable to expect all non-residential buildings to achieve BREEAM 'excellent'. This can be an aspiration, but in many cases, it may be unachievable for technical or viability reasons.
66. Delivering development is very challenging and to increase the burden on developers will simply mean that schemes are not viable, investment is not made, and jobs are not created. This will damage the local economy.
67. It will also mean that businesses remain in inefficient buildings rather than moving to more efficient new buildings because the cost of new buildings will be too high.
68. The wording should be amended to state that buildings will be expected to meet BREEAM 'very good.'
69. Criterion 6(b) limits residential development density within urban areas and rural service centres to around 35 dwellings per hectare. This is conflicts with criterion (d) of the policy which states that: *"Proposals which fail to make efficient use of land will be refused."* This policy should ensure flexibility on a site-by-site basis for sites where a high density may be appropriate in accordance with Policy SS2.
70. Criterion 10 should only apply to major development. The matters are simply irrelevant to most development proposals. For example, why should a loft conversion contribute to the hierarchy of open spaces.
71. Criterion 11 requiring FTTP is not justified for all mixed use and small-scale residential development. This criterion should only apply to large scale residential developments.

Summary

72. In summary, the Partnership seek to engage further on the nature of the site allocation for Altira Park. The Partnership is very supportive of its inclusion in the Draft Local Plan and appreciates the vision and work of the Council in preparing the allocation. Notwithstanding this, the allocation cannot overly limit the types of employment generating uses, and should be supportive of economic and residential development coming forward. The Partnership do, therefore, request that the matters raised in these representations are considered and a further iteration of the allocation and policies is welcomed.
73. The Partnership are not convinced that dividing the site into parcels is helpful because this is too prescriptive.
74. The commercial areas (Parcels A, B and C) should be identified for economic development. This should include commercial, employment and business development as defined in the Local Plan glossary (as proposed to be amended) and any other uses that create jobs, including other compatible uses such as builders' merchants, and car showrooms, leisure uses, care and nursing facilities and drive thru restaurants.
75. The site should exclude Moyne, which should be allocated separately for housing.
76. The glossary should be updated so that 'commercial use' includes Use Class E(d) uses. The definition of employment use should also include builders' merchants if they are not considered to fall within Class B8 and other related sui generis uses.



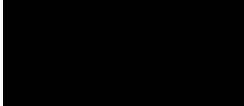
77. Floorspace figures are not required in the allocation because development will be occupier-led, and there is no need to be specific on which parcels or areas new floorspace will come forward. As noted, the areas should all be allocated for economic development. However, if the Council wants to include figures to show where new floorspace could be delivered, the wording should not be prescriptive. It should just state:

'Non-residential development that could be accommodated could include:

- 18,000sqm of commercial and business space; and
- 2,000sqm of employment space.

78. We hope the above is clear and helpful. We look forward to discussing further with the Council as the document progresses. Should you require any further information, please do not hesitate to contact me or my colleague Holly Ganderton.

Yours faithfully



Sean McGrath
Director