



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

16 January 2023

Dear Sir or Madam,

DRAFT CANTERBURY DISTRICT COUNCIL'S LOCAL PLAN - REPRESENTATIONS ON BEHALF OF ALTIRA PARK JV LLP

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 (“CCC”) Local Plan (“Draft Local Plan”), which is currently undergoing its Regulation 18 consultation.
2. Paragraph 35 of the National Planning Policy Framework (2021) states that local plans are ‘sound’ if they are:
 - Positively prepared;
 - Justified;
 - Effective; and
 - Consistent with national policy.
3. The NPPF also advises that Plans should be succinct (Paragraph 15). These representations have been drafted with this advice in mind.
4. 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.
5. We previously submitted representations on behalf of The Partnership to CCC’s Issues and Options consultation in October 2020 and submitted Altira Park in the Call for Sites consultation in July 2021 for mixed-use development.
6. Our client is keen to continue to work collaboratively with CCC to successfully deliver high-quality, much needed residential, commercial and employment floorspace to benefit Herne Bay and the wider District.
7. In terms of the context, the majority of the land at Blacksole Farm became known as ‘Altira Business Park’ (now referred to as Altira Park) many years ago and Blacksole Farmhouse; the associated barns; and the curtilage remained separate from Altira Park until it was included with the employment allocation in the CCC Local Plan adopted in July 2017. However, the Partnership maintain that Blacksole Farm along with the barn and curtilage, and Moyne, the

residential property to the south-east of Blacksole Farm, were incorrectly allocated for employment use and the most appropriate use continues to be residential.

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 foodstore planning consent.
9. Kitewood has also designated a strip of land to KCC Highway 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 first phase 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.
11. The Partnership have recently submitted two planning applications which will deliver Phase 2 of the masterplan. Phase 2a comprises approximately 7,000sqm of commercial floorspace (application ref. CA/22/02660) and Phase 2b will deliver residential development comprising 67 new homes at Blacksole Farm (application ref. CA/22/02513). **Figure 1** illustrates the masterplan at Altira Park and the different phases of development.

Figure 1 – Altira Park – Wider Masterplan



Existing Site Allocation

12. As set out in previous representations submitted, Altira Park has been a location for employment development since the 1990s and the employment designation was formalised in CCC's Local Plan adopted in July 2017. Blacksole Farm and 'Moyne', the residential property to the south-east, are also included within the Altira Park designation despite being in residential use, and never in employment use requiring protection.

13. Much of the designated area has remained vacant and there has been limited interest in developing the site for employment uses. In short, the current allocation is not effective because it does not provide sufficient flexibility to respond to the changing economic climate. Indeed, Blacksole Farm should never have been included, and is also outdated because Class B1 has now been revoked.
14. 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.
15. Therefore, Altira Park and Blacksole Farm should be reallocated for deliverable uses for which there is a need, as reflected in the current planning applications.

Emerging Policy HB8 'Altira'

16. Emerging Policy HB8 of the Draft Local Plan continues to include Blacksole Farm with Altira Park and is an allocation for 'business and commercial-led mixed-use development' including commercial and/or leisure, 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'.
17. Notwithstanding this, the Partnership welcome and support the additional uses set out within the emerging allocation at Altira Park and Blacksole Farm. However, given the importance of ensuring that the emerging allocation enables delivery of development at this site, 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

18. Our client is concerned that the new allocation must be flexible and positive. 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 means that often, overly prescriptive planning designations can hamper and hinder investment and job creation. Policies and allocators must be flexible and support investment.
19. Historically, the prescriptive allocation in the adopted Local Plan (2017) has delayed investment and ultimately job creation and so we welcome the flexibility that the emerging policy provides for.
20. In order 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 create new jobs and increases economic opportunities in the local area should be supported by the Council on Parcels A, B, C and D. It is clear from the lack of development on the site, despite both local and national marketing campaigns, any development will be occupier-led and, therefore, we require as much flexibility as possible to attract such occupiers to this part of Kent.
21. The separation of 'business', 'commercial' and 'employment' uses (which are defined within the Glossary in 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 has longevity. For example, employment generating *sui generis* uses fall outside the Draft Local Plan definitions.

22. The non-residential parcels on Parcels A to D should support 'economic development' and further consideration should be given to how the parcels are described. Whilst we welcome the officers' approach that reflects the masterplan that was promoted at an earlier stage, due to the everchanging market conditions, further flexibility is required to ensure that the parcels will be occupied and jobs will be created.
23. The parcels included within the emerging allocation that are not already consented or where there is not an application currently awaiting determination are Parcels B and C. We, therefore, request that Parcels B and C should be allocated for flexible commercial/business/employment development, as well as employment generating *sui generis* uses. Discussions are already taking place with potential occupiers for redeveloping Parcel C for employment (Class B2/B8 uses) development, but these uses would be contrary to the emerging policy as drafted.

Heritage

24. Criterion 2(e) refers to the allocation comprising two locally listed buildings: the barn at Blacksole Farm and Blacksole Farmhouse. However, given extent of fire damage, state of disrepair and structural defects, both buildings are being demolished and this has been agreed and approved by CCC.
25. Therefore, the reference to the two locally listed buildings should be deleted from the emerging Policy.

Pedestrian and Cycle Access

26. 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.

Housing Mix

27. Emerging Policy DS2 'Housing Mix' is referred to in this policy, however, given the density requirements of this particular emerging site allocation for Parcel E, greater flexibility is required to ensure that recognition is given to the need to deliver predominantly 1- and 2-bed dwellings in urban locations.

Phasing

28. The Partnership oppose Criterion 5(a) of the emerging policy as it is currently drafted.
29. It is not feasible nor practical nor viable to provide the full allocation of the business floorspace (Parcel C) before the occupation of 50% of the total dwellings (Parcel E) or 50% of the allocated commercial floorspace (Parcel A). As mentioned previously, there are live applications for Phase 2a (Parcel A) and Phase 2b (Parcel E) of the masterplan and these two applications are due to be determined in Spring 2023.
30. There is no prospect of speculative business space being delivered on the site because it is unsustainable, uncommercial and unviable. It will only be delivered if it is pre-let because of the high costs of building, the uncertain economic outlook and the need to reflect the tenants'

requirements in the scheme. Our client has no control when a potential tenant(s) might come forward, but it is reassuring that our client's track record of delivery is good.

31. This is why the delivery of parcels A and E cannot be tied to something over which the landowner has no control.
32. In short, the allocation should not prohibit development coming forward on the site. This part of the policy has not been positively prepared and no justification as to the phasing has been set out. It should be deleted.

Biodiversity Net Gain

33. Criterion 3(b) of the emerging Policy HB8 and emerging Policy DS21 'Supporting biodiversity recovery' require a minimum of 20% biodiversity net gain calculated using the latest Natural England biodiversity metric for all development, other than those exempt through national legislation.
34. 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.
35. The Environment Act 2021 requires planning permissions granted in England (with some exemptions) to deliver at least 10% biodiversity net gains, but the form and wording of the upcoming legislation is unknown and the exemptions to delivering biodiversity net gain are also unknown and could potentially include economic development and/or allocated sites. Therefore, the emerging Policy should not double the biodiversity requirement and apply it to every application before detailed secondary legislation on this topic is even known. The Plan should not seek to go beyond the requirements of the Environment Act.
36. 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 will set out the biodiversity requirement and it therefore does not need to be repeated in the site specific policy.

Emerging Employment Policies

Emerging Policy DS8 'Business and employment areas'

37. 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.
38. 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.
39. 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.

40. 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'.
41. 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.
42. In summary, emerging Policy DS8 is overly long and complex and appears to conflict with the NPPF paragraphs 81 and 82. 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 deleted.

Emerging Retail Policies

Emerging Policy SS3 'Development Strategy for the District'

43. 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 application at Altira Park seeks to provide 1,413sqm of comparison floorspace and 2,678sqm of convenience floorspace. In short, this exceeds the identified comparison retail "need" and over half the convenience retail "need" in the policy. Clearly, there is a need for the floorspace the Partnership are promoting as they have two operators that want to locate in Herne Bay.

Emerging Policy DS10 'Town Centres and Community Facilities'

44. 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. We set out some specific concerns below.

Criterion 3A

45. 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.
46. 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 3B

47. 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 3C

48. 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

49. 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.

50. 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 and 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.

Criterion 5

51. This part conflicts with Criterion 4 because such locations are outside identified centre boundaries.

Criterion 6

52. 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 high street 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 has introduced changes to the Use Classes Order and permitted development (PD) so former shops can be converted to other uses, including residential accommodation.

Criterion 7A

53. There is a no requirement to demonstrate a need for retail development. The test of 'need' was removed over ten years ago. The Council should not, and cannot, seek to introduce it now.

54. It is surprising if the Council are seeking in the first part of Criterion 7 to prevent out-of-centre development, whilst in the second part of the same criterion, the Council is seeking to prevent the loss of out-of-centre 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

55. There is no requirement in the NPPF to demonstrate need for new and improved medical, health and social care facilities.

Criterion 9

56. There is no requirement to demonstrate need for new or improved recreational facilities. Indeed, it is not clear what a 'local' need means.

Emerging Housing Policies

Emerging Policy DS1 'Affordable Housing'

57. 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'

58. 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'

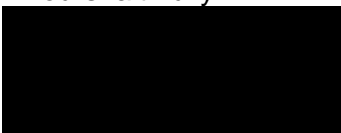
59. Criterion 3(b) of Emerging Policy DS6 'Sustainable Design' limits residential development density within urban areas and rural service centres to around 35 dwellings per hectare. This is conflicts with Criterion (d) of the policy which states that: "Proposals which fail to make efficient use of land will be refused". This policy should ensure flexibility on a site-by-site basis for sites where a high density may be appropriate use of that land.

Summary

60. In summary, the Partnership seeks 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, particularly in relation to Parcels B and C, 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.

61. I hope the above is clear and helpful. We look forward to discussing further with CCC as the document progresses. Should you require any further information, please do not hesitate to contact myself or my colleagues Sophie Ward and Sade Olokodana.

Yours faithfully



Sean McGrath
Director