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Executive Summary

This document is a request to the Planning Inspectorate to clarify and support Canterbury City Council plan-makers, the Community, and other interests with the local plan-making process in creating new local plan, to:

- produce a local plan that delivers right development in the right place at the right time
- work collectively and creatively in the local and national interest, using public money and assets economically, efficiently and effectively and avoiding disputes

Clarification is requested in 3 principal areas (1, 2, and 3 below) :

1. a) The *objective* of plan-making: sustainable development (environmental, social and economic progress; and ensuring that future generations can meet their own needs) by:

- informative and accurate maps and information that is transparent and publicly available;
- robust policies to require and enforce the right development in the right place at the right time: aligning growth and infrastructure; preventing pollution; protecting the best and most versatile land;
- building on local strengths e.g. innovation, tourism, food production
- overcoming weakness and threat e.g. water pollution; flood risk
- mitigating climate change e.g. extending areas of mature trees habitat
- adapting to its effects eg creating wetland in Stour river basin

balancing this with meeting local housing **needs** and the needs of neighbouring districts)

Or b) Delivering housing quotas and roads within 5 years, including on green field and in multiple areas protected by National Planning Policy Framework policies

2) On going and effective cooperation between Canterbury City Council, Kent County Council, infrastructure providers, developers; neighbouring districts and other interests on: matters that 'cross administrative boundaries: waste water and surface water; water supply; social care; flood prevention; transport; growing the economy; heritage species and habitat conservation

3) Proportionate and effective engagement between the Community and plan-makers; transparency and achieving Best Value.

16 questions are raised, which reference sources relating to legal and procedural matters: Clarification A – Clarification P.

Photographs illustrate issues that can be avoided by better strategic planning and cooperation: flood and water pollution of the Great Stour (2021-3); failure to retain trees; plant trees effectively and replace poorly planted trees; chalk river bank erosion and pollution next to construction site Kingsmead Riverside

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Urgent clarification request to Planning Inspectorate on pre-submission Plan-making procedures for Canterbury and District Local Plan

(Bold and italics have been added throughout the text to highlight relevant points.)

Please will you act in accordance with your purpose ¹ ‘to share your expertise’ with me and other interested parties, to clarify legal and procedural issues concerning plan-making for the local plan for Canterbury District, at your earliest convenience in order to ‘ensure good planning outcomes’ ?

In particular, clarification is needed on whether according to the 2021 National Planning Policy Framework, international obligations and ministerial statements in 2023 the following comply with legal and procedural requirements:

- the pre-submission plan-making process 2015-2017;
- the planning inspector’s comments on the 2017 local plan
- the pre-submission plan-making process 2019-16.1.2023 which was similar to the 2015-17 process

Since the last local plan in 2017 circumstances have changed:

- accelerating levels of water pollution (chalk rivers, lakes, sea)
 - 300 jobs lost in tourism in Canterbury District in the last 2 years² (tourism was worth £1bn to Kent GVA ³ in 2020)
 - foul water pollution impacting public health, social well-being, the environment and aquatic ecosystems
- increasing water stress
- increased flood vulnerability

¹ Gov UK About Us Planning Inspectorate *Examinations* ‘**Our purpose** is to deal with planning appeals, national infrastructure, planning applications, **examinations of local plans and other planning-related and specialist casework.**

We share our expertise with our **customers, communities, businesses, local** and national **government to enable good planning outcomes.**

<https://www.gov.uk/government/organisations/planning-inspectorate/about#examinations> , accessed 21.4.2023

²Kent Analytics Statistical Bulletin, *Tourism Industry in Kent*, April 2023,

https://www.kent.gov.uk/__data/assets/pdf_file/0004/87430/Construction-Industries-in-Kent-report.pdf

³ Gross value added

- loss of best and most versatile land of national importance due to fertile soil and climate not found elsewhere in the UK for new build housing estates that are largely unaffordable to local people

Demographics and market signals ⁴:

- Population in Canterbury District is falling not growing:
 - in 2021, 829 more people left Canterbury District than came into the area ⁵
 - 15 more people died than were born ⁶
 - UK fertility is below replacement ⁷ and has been falling globally since the 1950 ⁸
 - local population is ageing and will only grow through migration
 - 3.2% of housing in Canterbury District is vacant (2,216 dwellings) ⁹
2nd highest number among councils in Kent; 762 council properties empty
- Increased social housing **needs** 2,809 ¹⁰ : 300 more people on social housing list since the last local plan examination

Overview: Plan Making Issues requiring Clarification

- 1) Priorities in implementing: ‘ Plan-making with the objective of contributing to sustainable development’
- 2) Duty to cooperate/maintaining effective cooperation on infrastructure/aligning growth and infrastructure/ public access to statement(s) of common ground:
 - a. waste water and preventing water pollution, health risk and flooding
 - b. water supply, topography, soil and flood risk

⁴ Kent Analytics

⁵ What is causing Kents Population Growth, *Table 3 Migration in Kent Districts*

https://www.kent.gov.uk/__data/assets/pdf_file/0004/8149/Whats-causing-Kents-population-growth.pdf

⁶ *ibid* Table 2 *Natural Population Change in Kent Districts*

⁷ Office of National Statistics, *Live Births*,

[https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths#:~:text=Births%20in%20England%20and%20Wales%3A%202021&text=The%20total%20fertility%20rate%20\(TFR,TFR%20has%20risen%20since%202012](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths#:~:text=Births%20in%20England%20and%20Wales%3A%202021&text=The%20total%20fertility%20rate%20(TFR,TFR%20has%20risen%20since%202012), accessed 24.5.23

⁸ Our World In Data, *Fertility Rate*, <https://ourworldindata.org/fertility-rate>, accessed 24.5.23

⁹ Kent Analytics Statistical Bulletin, *Housing Stock in Kent*,

https://www.kent.gov.uk/__data/assets/pdf_file/0005/81662/Housing-stock.pdf, accessed 24.5.23

¹⁰ Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government

Table 600: numbers of households on local authorities' housing waiting lists, by district, England, from 1987,

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-rents-lettings-and-tenancies>, accessed 20.4.2023

- c. ecosystem services, habitat and species crossing administrative borders
- d. the historic environment crossing administrative borders

- 3) Statement of community involvement/proportionate and effective community engagement on:
- a. environmental report
 - b. up-to-date sustainability appraisal of draft local plan;
 - c. overlap of local plan with economic policy and corporate plan (Best Value Duty to consult ¹¹)

Background:

Following a change of leadership on 4.5.2023, Canterbury Council is revising the draft local plan which used evidence and in person consultation from over 3 years ago: 2019 and 2020. The previous draft local plan was given for public comment between 24.10.22-16.1.23.

Reasons why the Inspectorate's Advice is Needed: Urgent Public Interest

It is in the urgent public interest for there to be absolute clarity regarding legal and procedural requirements for plan-making and decision taking for plan-makers, communities and developers and other interested parties in producing the new draft local plan, to 'ensure the *right development* happens in the *right place* at the *right time* ¹²

It is in the public interests to:

- avoid further public money being spent on legal planning disputes: over £40,000 has been spent re. South Canterbury Urban Extension that was *in* the local plan; further public money has been spent on appeals by applicants for developments that were *not in* the local plan eg destruction of 4 inhabited well maintained adjacent double glazed detached houses, mature trees and gardens with pollinators on New Dover Rd: area of high traffic related pollution and surface water flooding, replaced by brick flats without surface water mitigation

¹¹ Local Government Act 1999 Section 3 The general duty

(1)A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(2)For the purpose of deciding how to fulfil the duty arising under subsection (1) an authority must consult— (a) representatives of persons liable to pay any tax, precept or levy to or in respect of the authority,... (c)representatives of persons who use or are likely to use services provided by the authority,

¹² Gov UK About Us Planning Inspectorate *Our Purpose*,
<https://www.gov.uk/government/organisations/planning-inspectorate/about#examinations> accessed 21.4.2023

- provide a robust development and economic strategy to rule out harmful speculation ¹³ and *promote economic growth* based on **local strengths** and geopolitical **opportunities** ¹⁴; protect and enhance natural and historic environment: especially chalk streams, grassland with endangered brook lamprey and Adonis butterfly and Ramsar lakes
- *reverse* the environmental, economic and social losses and increased flood risk of the last 6 years : foul water and sewage pollution (rivers, seas, lakes)
- protect water supply and align growth to water supply; waste water and transport infrastructure
- preserve best soil so that future generations can meet their own needs ¹⁵

Suggestion: Digital Layered Map illustrating topographical and other information in addition to sites earmarked for housing development

16 Plans should ¹⁶:

- e) be accessible through the use of digital tools to assist public involvement and policy presentation;

Currently housing development sites are considered in isolation out of context leading to negative environmental, economic, social and health consequences.

Advantages: simple overview to understand connections and cumulative effect: risks and opportunities that can be shared with interested parties and neighbouring districts.

Layered map should include:

- i) topography natural and man: soil type (protecting ... sites of ... **geological value** and **soils** in a manner commensurate with their statutory status or **identified quality** in the **development plan**’) ¹⁷; water catchment areas, source protection zones; flood zones, high and low land; water ways and links to Ramsar site Stodmarsh, man made features: sluices, weirs, mill ponds etc

¹³ Ministerial letter from Secretary of State for Housing, Communities and Local Government to Sarah Richards, Chief Executive Planning Inspectorate, 18.6.2019, ‘The Government wants to see every community covered by an up-to-date plan for sustainable development - **meaning that communities are in control of development and are not exposed to speculative development**.. I recognise the important role that the Planning Inspectorate plays in examining local plans on my behalf and I am **committed to ensuring the independence of the examination process**.. ‘www.gov.uk/mhclg, accessed 20.1.23 .

¹⁴ NPPF (2021) Chap 6, Building a strong competitive economy, para 81 (paraphrase)

¹⁵ Resolution 42/187 of the United Nations General Assembly

¹⁶ *ibid* Chap 3 Plan-making

¹⁷ *ibid* Chap 15, Conserving and enhancing the natural environment, para 174 a)

- ii) risk areas: (current, past and planned) waste tips, sewage works, derelict industrial buildings with asbestos e.g. Chartham paper mill, mineral extraction sites, weirs and sluices etc
- iii) habitat rich in biodiversity, especially rare sites e.g. chalk streams and chalk grassland; ecosystem services more widely agricultural land, woodland , protected trees etc ('plans should: **Identify, map** and **safeguard** components of local wildlife-rich habitats and wider ecological networks ¹⁸⁾
- iv) heritage, tourist and spiritual sites and settings and links outside of district e.g Via Francigena and North Downs Way
- v) housing, quantity, type, location, cost, affordability, ownership type, social provision (current, under construction, proposed and ***vacant***)
- vi) sites of business, industry, manufacturing, creative services, retail, hospitality energy production, health and social service provision, education etc
- vii) infrastructure: transport, digital, WwTw, water supply, flood defence SUDs and other infrastructure (current and proposed)

Kent's Lack of Sewage Treatment Capacity for Proposed New Build Recognised in 2016

The Sustainability Appraisal ¹⁹ for the 2020-2045 draft local plan, references *Kent Water for Sustainable Growth Study*²⁶ from **2016**, *7 years ago*:

'the capacity headroom was not in place at wastewater treatment works (WwTW) to meet planned development and *additional capacity* was required to support new development'

This was a year *before* the planning examiner inspected the 2017 local plan.

Statutory Obligation to take NPPF (2021) and international obligations into account in preparing the Development Plan and Planning Policies

There is a statutory obligation for local planning authorities, like Canterbury to use National Planning Policy Framework (2021):

'The National Planning Policy Framework ²⁰ *must* be taken into account in preparing the development plan and is a material consideration in planning decisions.

¹⁸ ibid Chap 15 Conserving and enhancing the natural environment, *Habitats and Biodiversity* para 179 a)

¹⁹ 'Draft Local Plan Sustainability appraisal of the Draft Canterbury District Local Plan (2020-2045) (Regulation 18 consultation) , Appendix D

²⁰ ibid, *Introduction* para 2

Planning policies and decisions must also reflect relevant *international obligations* ²¹ and statutory requirements.'

Strategic Policies must make Sufficient Provision for Waste Water and Water Supply Infrastructure

20. Strategic policies ²² should set out an overall strategy for the pattern, scale and design quality of places, and make **sufficient provision**^{13 23} for: ...

b) **infrastructure** for transport, telecommunications, security, waste management, **water supply, wastewater, flood risk** and coastal change management, and the provision of minerals and energy (including heat);

Legal Requirement to make plans with the objective of contributing to the achievement of sustainable development

'16 Plans should:

a) be prepared with the **objective** of contributing to the achievement of **sustainable development** ²⁴

This is also a legal requirement ²⁵ for plan-makers according to Planning and Compulsory Purchase Act (2004) Section 39(2).

Sustainable development is an international obligation ²⁶

High Level Definition Sustainable Development

7. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs ²⁷

²¹ This includes Resolution 42/187 of the United Nations General Assembly; Transforming our World: the 2030 Agenda for Sustainable Development ; Ramsar Convention (1975); *ibid* para 2

²² NPPF (2021) Chap 3 Plan-making, *Strategic Policies*, para 20

²³ *ibid* footnote 13 in the original text: ' In line with the presumption in favour of sustainable development.'

²⁴ *ibid* Chap 3 *Plan-making* para 16 a)

²⁵ *ibid* Footnote 11, Chap 3 *Plan-making* para 16 a)

²⁶ members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection (Transforming our World: the 2030 Agenda for Sustainable Development)

²⁷ NPPF (2021) Chap 2, *Achieving Sustainable Development* para 7

Definition of ‘sustainable development’

Sustainable: not compromising the ability of future generations to meet their own needs

Development: meeting the *needs* of the present

Overarching Objectives of Sustainable Development: Economic, Social, Environmental²⁸

8. Achieving **sustainable development** means that the planning system has **three overarching objectives**, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure **net gains** across each of the different objectives):

a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the **right types** is available in the **right places** and at the **right time**²⁹ to support growth, **innovation** and **improved productivity**; and by **identifying and coordinating the provision of infrastructure**;

b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a **sufficient** number and *range* of homes can be *provided* to meet the **needs** of *present and future generations*; ...

c) **an environmental objective**—to protect and enhance our natural, built and historic environment; including **making effective use of land**, **improving biodiversity**, using natural resources prudently, minimising waste and pollution, and **mitigating and adapting to climate change**, including moving to a low carbon economy.

Clarification (A): is there no *Duty to Cooperate* required for water supply, waste water and ecosystems services Infrastructure; climate change adaptation: flood/drought defence and mitigation; social care; health; and species and habitat conservation?

Waste water, water supply, topography , climate change and flood risk management, social care, health and species and habitat conservation are ‘**strategic matters that cross administrative boundaries**’ . Para 24 applies:

‘24. Local planning authorities and county councils (**in two-tier areas**) are under a **duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries**.

²⁸ *ibid* para 8

²⁹ Gov UK Planning Inspectorate , About Us ,*Examinations* : We....share our planning knowledge and expertise to help ensure the **right** development happens in the **right** place at the **right** time
<https://www.gov.uk/government/organisations/planning-inspectorate/about#our-purpose>

25. Strategic policy-making authorities should collaborate to identify the **relevant strategic matters** which they **need to address in their plans**. They should also **engage with their local communities** and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, the Marine Management ...

In the 2017 examination report ³⁰, a discussion between CCC and Swale regarding CCC building additional houses to reduce Swale's housing delivery target was noted under the 'duty to cooperate'. But no duty to cooperate on waste water and water supply infrastructure; social care provision; health; ecosystem services; habitat and species; adaptation for climate change: flood and drought mitigation and defence, was mentioned. He stated:

22 The Council is a member of the East Kent Regeneration Board, comprising five District Councils and the County Council. It is supported by a Chief Executives' Forum and **ensuring compliance with the duty** is one of its **objectives. It will clearly provide a focus for ongoing engagement on strategic matters.**

The contact for the East Kent Regeneration Board is KCC Cllr Mark Dance, who has a potential conflict of interest (Kent Online ³¹: 'Outside Kent County Council, Mr Dance has a glazing and construction company').

At an open planning meeting on 29.9.22, Cllr Dance advocated an immediate start to building the South Canterbury Urban Extension without waste water infrastructure and ferrying sewage from the site to a 'secret' WwTW.

Extract from non verbatim summary of Cllr Dance's comments ³²:

'I worked with Mr Jones who I can see in this room [he appears to be referring to Mr Simon Jones, Director of Highways for Kent County Council] and we worked hand in hand with Ebbsfleet Garden City.

- You've got to have partnership working, *need to move away from fear of infrastructure.*

The majority of WwTw in Canterbury District still have insufficient capacity and regularly 'spill' raw sewage, partially treated effluent and foul water into rivers and sea, including in dry weather. The *Financial Times* notes Southern Water moves

³⁰ Report to Canterbury City Council Mike Moore BA(Hons) MRTPI CMILT MCIHT, 15 June 2017, *Planning and Compulsory Purchase Act 2004 (as amended) Section 20, Report on the Examination of the Canterbury District Local Plan*

³¹ Kent Online, 6.2.2015, *Spotlight interview with Mark Dance, Kent County Council cabinet member for economic development*, <https://www.kentonline.co.uk/kent-business/county-news/putting-the-pieces-of-the-31427/>, accessed 19.2.2023

³² email from Jan Guyler Head of Legal Services and Monitoring 7.11.2022

tankers of sewage between sites to alter Environment Agency inspection results ³³. Swalecliffe WwTw is particularly notorious for public health incidents ³⁴, and contamination of farmed oysters ³⁵, due to the frequency of its raw sewage spills which affect the north Kent beaches, including Whitstable and Herne Bay ³⁶. In a parallel case, building started without wastewater in Greenhill, Chestfield near Whitstable. CCC plan-makers approved building work to start on green field for 450 houses, although sewage infrastructure capacity was only sufficient for only 20 houses. Residents complained in early 2023 when builders were seen connecting foul water pipes to to the existing network. Chestfield Parish meeting minutes 13.3.2023:

‘ Chestfield Parish Council was pleased to note a document on the CCC planning portal dated 17 October 2022 : Our understanding was that, *as an interim measure, tankering* is to take place from the Greenhill development via on *onsite holding tank at Greenhill* and taken by tanker to the **Swalecliffe WWTW** – and with Southern Water to meet the costs of tankering.’

Raw sewage combined with household chemicals and waste e.g. bleach and dishwasher detergent, tampax, needles etc, whether spilling via overloaded combined sewer overflow into local rivers ³⁷ or being spilled directly into the sea, poses an extreme threat to aquatic life and public health. This crisis is known nationally ³⁸ and globally ³⁹ ⁴⁰ and is damaging reputation and investment in Kent.

³³FT, *Southern Water hit by £126 fine for ‘serious penalties’*, <https://www.ft.com/content/518b21fa-9711-11e9-9573-ee5cbb98ed36>, accessed 24.5.23

³⁴ Kent Online, 9 Oct 2022, *Thousands take to Tankerton Beach Whitstable to protest sewage pollution by Southern Water* <https://www.kentononline.co.uk/whitstable/news/beach-turned-into-crime-scene-at-2-000-protest-274912>

³⁵ The Times, 11.4.2023, *Sewage Spills threaten* <https://www.thetimes.co.uk/article/sewage-spills-threaten-to-wipe-out-whitstables-oyster-farmers-clean-it-up-rrh87tn2v>

³⁶ <https://www.kentononline.co.uk/herne-bay/news/couple-and-dog-suffer-sickness-and-diarrhoea-after-sea-swim-271260/>

³⁷ <https://www.kentononline.co.uk/whitstable/news/probe-as-sewage-found-flowing-into-towns-hidden-river-267489/>

³⁸ Gateshead, Newcastle, *Gateshead woman's fury after sewage dump at Kent seaside leaves her, partner and dog with gastroenteritis* <https://www.chroniclelive.co.uk/news/health/sewage-sea-gateshead-gastroenteritis-illness-24664357>, accessed 23.5.23

³⁹ Die Welt, *Tampons und Kot bei Ebbe Großbritanniens gefährliches Abwasserproblem* <https://www.welt.de/wirtschaft/plus236239774/Tampons-und-Kot-bei-Ebbe-Grossbritanniens-gefaehrliches-Abwasserproblem.html>

⁴⁰ Le Monde, *Au Royaume Uni des plages souillées par les-eaux usées* https://www.lemonde.fr/planete/article/2022/01/21/au-royaume-uni-des-plages-souillees-par-les-eaux-usees_6110348_3244.html France, accessed 23.5.23 ;

In the 2017 report ⁴¹ of Canterbury District local plan, Inspector Mike Moore wrote:

118. It is not necessary for the policies for every individual site to refer to the need for suitable arrangements for the disposal of foul water. A general reference in Policy CC13 (MM108) will ensure that the LP is effective in this regard. Based on the **available evidence** ⁴², **waste water infrastructure is unlikely** to be a **significant constraint on development**.

It is not clear from the report, whether he acknowledged that waste water is 'critical infrastructure', or not, in 2015.

However, it seems clear that he believed a 5 year supply of housing is more important than the negative economic, social, environmental and public health consequences caused by foul water and sewage pollution. Before the implementation of the 2017 local plan, public health incidents concerning sewage in public water were rare.

3. ..after Stage 1 was concluded I issued my preliminary findings on a number of matters. At the hearings Canterbury City Council ('the Council') had accepted that on adoption the plan would be unlikely to result in a 5-year housing land supply. There were also issues concerning the delivery of critical infrastructure and viability relating to the strategic allocations. Accordingly, the Stage 2 hearings were postponed. Amongst other things, the Council undertook further work that sought to remedy these concerns.

He considers that 4,000 houses, office space, schools and a petrol station: the 'South Canterbury Urban Extension' justifies losing beautiful fertile agricultural land, water catchment area and animal habitat (biodiversity unit offsetting is used). The land is the site of the start of the historic Via Francigena documented by Archbishop Sigeric in 990CE which connects the UNESCO world heritage cities and Canterbury and Rome. He writes:

148. '....The **loss of a section of AHLV** ⁴³ the development of **mainly best and most versatile agricultural land** and **other adverse impacts** of the development must be **balanced** against *the significant contribution that it would make towards meeting housing needs.* '

Comparison of the apparent plan-making objective and priorities of Examiner Report (2017) and NPPF (2021)

Apparent view of Examiner:

⁴¹ Report to Canterbury City Council Mike Moore BA(Hons) MRTPI CMILT MCIHT, 15 June 2017, *Planning and Compulsory Purchase Act 2004 (as amended) Section 20, Report on the Examination of the Canterbury District Local Plan*

⁴² Kent Water for Sustainable Growth Study²⁶ produced in 2016 indicated additional waste water treatment capacity was required for the new build proposed in Kent

⁴³ Area of High Landscape Value

The **objective** of plan making is to *deliver housing quotas* within 5 years. This *objective takes priority* over sustainable development (net economic, social and environmental gains ⁴⁴/future generations meeting their own needs ⁴⁵). Planning policies and decisions do not need to reflect relevant *international obligations* and other statutory requirements contained in NPPF, if this would compromise achieving housing quotas within 5 years.

NPPF (2021):

‘The **objective** of plan making is to contribute to the achievement of sustainable development’ ⁴⁶ (net economic, social, environmental gains ⁴⁷ / future generations meeting their own needs ⁴⁸) balancing this with the need for additional housing ⁴⁹ which is required because the population is ageing and growing ⁵⁰. Planning policies and decisions must reflect relevant *international obligations* and statutory requirements. ⁵¹ Housing quotas within 5 years are not required if the ‘adverse impacts of building would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole.’ ⁵²

⁴⁴ NPPF (2021) Chap 2, *Achieving Sustainable Development* para 8 and 7

⁴⁵ Resolution 42/187 of the United Nations General Assembly; NPPF (2021) Chap 2, *Achieving Sustainable Development* para 7

⁴⁶ *ibid* Chap 3 *Plan-making* para 16 a)

⁴⁷ *ibid* Chap 2, *Achieving Sustainable Development* para 8

⁴⁸ see footnote 35

⁴⁹ NPPF Ministerial foreword by the Rt Hon Greg Clark MP (2012)

‘The purpose of planning is to help achieve sustainable development.

Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations.

Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us.’

⁵⁰ Due to migration: fertility rates in the UK are below replacement, at 1.6 per woman. Since 2012 there has been a ‘long-term trend of decreasing live births’, Office for National Statistics
<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/bulletins/birthsummarytablesenglandandwales/2021>, accessed 20.5.23

⁵¹NPPF (2021), *Introduction* para 2

⁵² *ibid*, ⁵² NPPF (2021), Chapter 2 *Achieving Sustainable Development*, *Presumption in favour of Sustainable Development*, para 11 b) ii

Clarification (B): Should Canterbury District use an alternative method to the 'Standard Method' for determining needs for new build housing, in order to prepare plans with the 'objective of contributing to the achievement of sustainable development'?

Government Guidance is that calculating numbers for quotas of new build housing, 'objectively assessed need' using the 'standard method'⁵³ is not mandatory:

"Is the use of the standard method for strategic policy making purposes mandatory?"

'No, if it is felt that circumstances warrant an alternative approach but authorities can expect this to be scrutinised more closely at examination. There is an expectation that the standard method will be used and that any other method will be used only in exceptional circumstances.'

Canterbury District is at a critical point and needs to bring growth and infrastructure into alignment, urgently, to avoid an accelerating downward spiral of interconnected environmental, economic and social well-being and public health deterioration. The cumulative effects on water supply and water pollution of ongoing simultaneous new build construction in south east Kent has yet to fully impact the District e.g. Otterpool (700 hectares 10,000 houses not yet started), and Whitfield outside Dover, (6,350 houses currently under construction).

Plan-making must consider Written Ministerial Statements ⁵⁴

6. Other *statements of government policy* may be material when preparing plans or deciding applications, such as **relevant Written Ministerial Statements** ...

Housing Update Ministerial Statement 16 Dec 2020 ⁵⁵:

...the standard method does **not** present a 'target' in plan-making, but instead provides a *starting point* for determining the level of need for housing in an area. It is only **after consideration** of this, **alongside what constraints areas face**, ... that the decision on how many homes should be planned for is made. It is **crucial that planning is more certain and more transparent**.

⁵³ National population growth forecast from 2014. In fact, ONS growth forecasts have reduced every year since then.

⁵⁴ NPPF (2021), Introduction, para 8

⁵⁵ UK Parliament, Questions Answers and Statements, UIN Statement HCWS660

Housing Update Ministerial Statement 16 Dec 2020, <https://questions-statements.parliament.uk/written-statements/detail/2020-12-16/hcws660>, accessed 23.5.23

Annex 1: Implementation ⁵⁶

218. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. ***Plans may also need to be revised to reflect policy changes which this Framework has made.***

‘Align growth and infrastructure’ is now ⁵⁷ a key requirement for plan-making: The presumption in favour of sustainable development para 11, 1 a). Waste water companies are permitted to create ecological damage through discharges of foul water and raw sewage into waterways when it is not raining ***until 2049*** ⁵⁸. Para 11, 2 b) ii, guidance on plan-making in NPPF (2021), appears to provide grounds not to destroy more of the best and most versatile land, cover water catchment and put faith in Severn Trent to manage new WwTw, SUDs and surface water management projects on green field in a different way from usual: raw sewage discharged into rivers, streams and seas for 461,135 hours in the UK in 2021 - 3 times greater than Southern Water ⁵⁹.

‘The Presumption in Favour of Sustainable Development ⁶⁰

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

- a) all plans should promote a ***sustainable pattern of development*** that seeks to: meet the **development needs** of ***their*** area; ***align growth and infrastructure***; ***improve the environment***; ***mitigate climate change*** (including by ***making effective use of land in urban areas***) and ***adapt to its effects***;

⁵⁶ NPPF (2021) Annex 1 Implementation

⁵⁷ For a short period under the leadership of Jacob Rees-Mogg in 2019, reference to sustainability was removed from para 11a and the text was changed to: ‘plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change’ this text has been completely rewritten and the international commitment to sustainability restored.

⁵⁸ By **2050**, no storm overflows will be permitted to operate *outside* of unusually heavy rainfall or to cause any **adverse ecological harm**. Gov UK, *Storm Overflows Discharge Reduction Plan* (2022), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1101686/Storm_Overflows_Discharge_Reduction_Plan.pdf, accessed 2.3.23

⁵⁹ Statista, Erik Burgueño Salas, 17.4.23, *Number of times water firms discharged raw sewage into England waterways 2021*, <https://www.statista.com/statistics/1180118/water-company-sewage-spills-england-rivers/>, accessed 23.5.23

⁶⁰ NPPF (2021), Chapter 2 Achieving Sustainable Development, *Presumption in favour of Sustainable Development*

b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas⁶¹, **unless**:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area⁷; or
- ii. ***any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.***

Danger of accelerating water supply shortage in East Kent

There is foreseeable danger of water supply crisis. The earliest new water supply can become available if from a new reservoir at Broad Oak which will not be available until at least 2033⁶¹. There is extensive new build on green field currently taking place.

‘The reservoir is smaller than the original concept and would be determined by Canterbury City Council as the local planning authority (rather than being determined at a higher level as a major infrastructure project.)’⁶²

It is unclear how a water supply crisis can be avoided. This may also impact rivers and aquatic life despite, in principle, legal abstraction limits. Plan-makers need to recognise the need to:

- *align water supply and new build estates demand*
- *protect catchment areas*
- *have effective and ongoing joint working and cooperation with KCC, water supply infrastructure providers, neighbouring districts, developers, Environment Agency, Natural England etc*

Additional water supply demand is caused by:

- loss of supply during increasingly hotter and longer periods of drought caused by climate change
- loss of supply caused by building housing estates and roads on permeable chalk land in South Canterbury and Kent
- increased small scale private extraction for irrigation during droughts that do not require licences, but have cumulative effect e.g. Canterbury Cricket Club and other private landowners
- illegal extractions that are not apprehended
- increased demand caused by migration to Kent to live on new build estates

⁶¹ Chestfield Parish Council minutes 13.3.2023

⁶² *ibid*

The draft local plan 2022-2045 failed to protect water catchment areas and poses a danger of contaminating water supply by building on nitrate vulnerable zones and drinking water source zones in south Canterbury.⁶³

The 2017 examination report stated:

316The Water Resources Management Plans for both Southern and South East Water draw attention to **East Kent** being a **particularly dry area** with **low rainfall** and **growing water supply demand**. There are **areas of serious water stress**.

When taps ran dry⁶⁴ without warning in July 2022 in nearby villages of Challock and Molash, it meant elderly, babies and people with learning difficulties with continence issues could not be cleaned and flower growers lost their crops and suffered financially.

Nonetheless, the 2017 continues:

117 The Water Resources Management Plans affecting the District have taken account of anticipated development⁶⁵. There have been no ***in principle objections*** to the LP from the water companies. ***On the submitted evidence water resources should not be a constraint on development in the plan period.*** The ***possibility*** of a new reservoir at Broad Oak is a preferred option for South East Water in the longer term. ***Further details on this proposal and its impacts are required*** but the LP makes appropriate reference to it.

Clarification (C): Should Transport Strategy be costed and approved before plans for new housing estates are approved and construction starts?

Although there was no joint strategy on water supply, waste water and flooding in 2017, there was cooperation on roads, which did not go smoothly:

28. The City Council has been **jointly** preparing a District Transport Strategy with Kent County Council, a revised draft of which was submitted with the LP. ***Concern has been expressed about*** approval of the draft Strategy by the County Council and ***various aspects of the working relationship between the two Councils on transport and highways matters.*** `

Regarding duty to cooperate the plan examiner stated:

28. However, the duty is not a duty to agree.

⁶³ Appendix D Baseline Analysis, Water Supply, *Draft Local Plan Sustainability appraisal of the Draft Canterbury District Local Plan (2020-2045) (Regulation 18 consultation)*

⁶⁴ Kent Online 16 July 2022, *Challock and Molash, near Ashford, without water supply*, <https://www.kentonline.co.uk/ashford/news/taps-run-dry-in-two-villages-270409/>

⁶⁵ The water resource management plan drew attention to ‘areas of serious water stress’ and ‘increased demand’

This is strange given:

26. **Effective** and **on-going** joint working between strategic policy-making authorities and relevant bodies is *integral* to the production of a *positively prepared* and *justified strategy*' ⁶⁶

Examining plans

35. Plans are 'sound' if they are: ..

c) **Effective** – deliverable over the plan period, and **based on effective joint working** on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; ⁶⁷

Consequences of lack of effective cooperation on transport at strategic planning stage

Seven years later, new estates on the local plan are part constructed and there is significant public dissatisfaction with uncertain road building plans to support the new build estates at Thanington and Howes Barracks – the latter mooted to require felling ancient woodland and damaging an SSSI.

Clarification (D): Is it possible to provide publicly available Statement(s) of Common Ground on Transport and other public interest plan-making issues that cross administrative boundaries throughout the plan-making process?

Publicly available statements of common ground throughout the plan-making process would provide transparency.

27. In order to **demonstrate effective and on-going joint working**, strategic policy-making authorities should prepare and maintain **one or more statements of common ground**, documenting the cross-boundary matters being addressed and progress in cooperating to address these. **These should be** produced using the approach set out in national planning guidance, and be **made publicly available throughout the plan-making process to provide transparency**. ⁶⁸

Clarification (E): Will the Planning Inspectorate verify that the public have been invited to see and comment on an Environmental Report concerning the New Draft Local Plan 2023?

⁶⁶ NPPF (2021), Chapter 3 Plan-making, *Maintaining Effective Cooperation*, para 26

⁶⁷ *ibid*, *Examining Plan*, para 44

⁶⁸ *ibid* para 27

The public have a statutory right ⁶⁹ to be invited to access and comment on an environmental report concerning the effects of a new draft local plan on the environment.

Gov UK guidance **Consultation Procedures (regulation 13)** ⁷⁰

'As soon as reasonably practicable after their preparation, the draft plan or programme **and environmental report** shall be sent to the consultation bodies and **brought to the attention of the public**, who should be **invited** to express their opinion. The *period* within which opinions must be sent must be of *such length* as will **ensure an effective opportunity to express their opinion**. ⁷¹

It appears that the previous CCC leadership may have thought that it was acceptable to write the words that the public are invited to comment on an environmental report, without actually providing an environmental report or providing a way to comment on it

Canterbury City Council commissioned a sustainability appraisal on the draft local plan, as required by NPPF (2021) ⁷². It is not clear if it considered itself to be a Strategic Environmental Assessment, as well.

This was on Canterbury City Council Google Drive, (not the website for comments on the local plan). It was not widely publicised and was *dated* October **2022** but had the title 'Draft Local Plan Sustainability appraisal of the Draft Canterbury District Local Plan (2020-2045) (Regulation 18 consultation).

In this document, page 24 there is the following statement, **which gives no explanation of how to comment on the sustainability assessment:**

'1.8 How to comment on this SA Report 1.8.1 This SA Report has been issued for consultation alongside the Draft Local Plan consultation from Monday **24 October 2022 to Monday 16 January 2023**. We would welcome your views on any aspect of this SA Report. In particular, we would like to hear your views as to whether the effects

⁶⁹ Environmental Assessment of Plans and Programmes (2004) Regulation 12 and 13

⁷⁰ Gov UK assets publishing, *Strategic Environmental Assessment Regulations requirements checklist*, accessed 23.5.23

⁷¹ UK Gov: Sustainability appraisal requirements for local plans and spatial development Strategies Strategic Environmental Assessments Requirements Checklist

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/580073/Strategic_Environmental_Assessment_Regulations_requirements_checklist.pdf (accessed 10.4.2023)

⁷² 32 Local plans and spatial development strategies should be informed *throughout* their preparation by a **sustainability appraisal** that meets the relevant legal requirements. 'legal requirement' refers to the Strategic Environmental Assessment; NPPF (2021) Chap 3, Plan-making, *Preparing and Reviewing Plans*, para 32 and *ibid* footnote 19

which are predicted are likely and whether there are any significant effects which have not been considered.'

Clarification (F): can evidence that excludes recent flooding, water pollution and water supply failure events over the last 2 years and does not investigate the causes of these events, be considered 'up-to-date', 'adequate' and 'proportionate' and to 'tightly justify' a draft local plan?

The Strategic Flood Risk Assessment and Sustainability Appraisal although dated 2022 use data from 2020 which omits events over the past 2 1/2 years:

- water pollution
- flooding e.g. in flood zones and from higher to lower ground during downpours
- river side tree loss and river bank erosion
- impact of construction process and existence of newly constructed estates on green field
- drought

NPPF (2021); para 31:

Preparing and reviewing plans ⁷³

31. The preparation and review of all policies should be underpinned by relevant and **up-to-date evidence**. This should be **adequate** and **proportionate**, focused tightly on supporting and justifying the policies concerned...

Photos illustrating deterioration in water quality of chalk Great Stour since Sustainability Appraisal of 2020

Photos of tourist attraction, Westgate Gardens, used by Canterbury City Council.

Authority Monitoring Report

April 2021 to March 2022



Great Stour Westgate Gardens
foul smell, mud colour 30 April
2023



⁷³ NPPF (2021), Chapter 3 Plan-making, *Preparing and reviewing plans*, para 31

Figure 1.1. Comparison Great Stour water clarity April 2021 and April 2023 (no recent rain)



Fig 1.2 Marketing photo Westgate Gardens and reality April 2023 (no recent rain)

Examples of flooding a since Flood Risk Assessment 2020

There is a mill pond directly behind the new build housing and mill conversion.



Fig 1.3 Barton Mill Estate, Canterbury flooding 7.1.2021

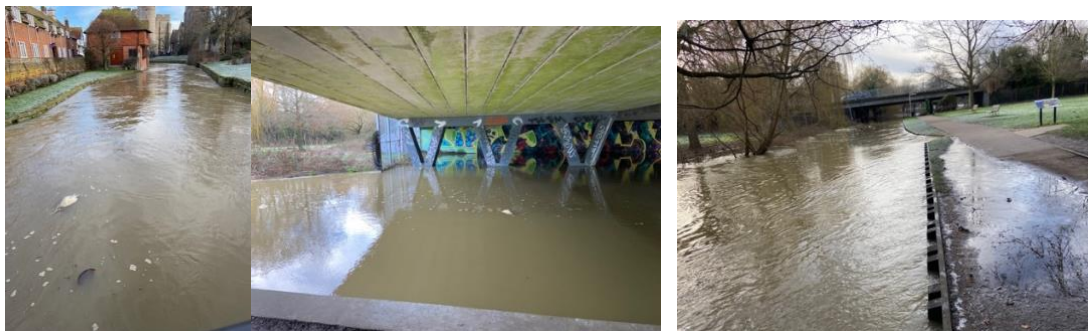


Fig 1.4 Great Stour Westgate Gardens 18.1.2023. Flooding and foul water

Clarification (G): How can communities be empowered to 'shape' where they live? Could, for example, the Community be empowered to reclaim vacant buildings ?

Both the planning inspectorate and NPPF (2021) suggest people and communities are *not* supposed to be powerless in the face of developer interests and the compulsory

purchase power of planning authorities. The Planning inspectorate writes :
'Examinations **Supporting communities to *shape* where they live**' ⁷⁴ .

NPPF (2021): Succinct and up-to-date plans should provide a positive vision for the future ... and a platform for local people to '***shape* their surroundings**' .

3. Plan-making

15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a ***positive vision*** for the future of each area; a framework for addressing housing ***needs and other economic, social and environmental priorities***; and a platform for local people to ***shape their surroundings***.

The previous Council leadership made it clear they did not wish the public to have an active role in ***shaping*** the local plan through their Statement of Community Involvement (2019):

'***We*** will involve the community and stakeholders in the preparation of ***our*** Local Plan. ***During the plan preparation stage we*** will carry out engagement on ***our*** initial ***ideas*** for ***what the Local Plan should contain***. This could be through the use of social media, online consultations, workshops, charette, drop-in sessions or exhibitions, as appropriate. ...'

Apart from Planning Inspectorate inspection of the local plan, which should be every 5 years, there is little to no, public scrutiny ⁷⁵ to prevent misuse of powers. The Council has absolute power of compulsory purchase of land against the will of the landowner and the community. Under the previous leadership, the right to know a planning application had been made on land you own was not even acknowledged. A farm owner at Hawe Farm, Broomfield, who wanted to keep his land, first discovered that his land was earmarked for development in the local plan, when he saw it announced in the local newspaper ⁷⁶.

Anecdotally, many of the lower income demographic in Canterbury District feel disenfranchised and angry; are unaware of a 'local plan' and do not know any way to '***shape***' where they live. They resent seeing woodland, fields and farmland – in some cases where their families worked for generations - lost to what they consider to be overly large, overpriced houses they could never dream of owning. They are angry at river, lake and sea pollution and the destruction of nature in the places where they grew up.

⁷⁴ Gov UK Planning Inspectorate , About Us , *Examinations*

<https://www.gov.uk/government/organisations/planning-inspectorate/about#>

⁷⁵ Transparency International UK, press release 30 July 2020, *Councils lack essential safeguards to prevent corruption in the planning process*, <https://www.transparency.org.uk/planning-council-local-authority-corruption-risk-permission-accomplished>, accessed 21.5.23

⁷⁶ Kent Online, Jack Dyson, June 2021, *Herne farm owner shocked to see his land earmarked for development in Canterbury City Council Local Plan*, <https://www.kentononline.co.uk/herne-bay/news/keep-your-hands-off-our-land-249597/>, accessed 29.4.23

There is a long waiting list of local people with social housing **needs** 2,809 ⁷⁷ - a rise of 300 people since the last local plan examination. There are currently only 762 empty council properties. Poverty and housing insecurity is rising due to inflation above wage and benefit rises, which stands at 10.2% in May 2023 ⁷⁸.

In 2016, 3,116 people signed a petition to parliament ⁷⁹ asking that the recently vacated Howe Barracks could be used to house local people with social housing needs, instead of using the site to rehouse social tenants from Redbridge Borough Council, London, which is not a neighbouring district.

The possibility of rehousing people from London was not clarified in the 2017 local plan examination:

London's housing needs

59. The possibility that London may not be able to accommodate all its housing needs and may look to other Councils in the South East to assist was considered above under the duty to co-operate...This should be considered in a future review of the LP if necessary.

There were 2,216 empty dwellings in Canterbury District in 2021. Anecdotally, many are used for investment purposes only and the companies and investors who own them are sufficiently wealthy, to have no incentive to rent them out.

There are also derelict and unused agricultural, industrial and retail properties; tax incentives and penalties and charitable grants could bring these into use to ease the housing affordability crisis which is deteriorating as the real value of wages and benefits falls.

⁷⁷ Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government

Table 600: numbers of households on local authorities' housing waiting lists, by district, England, from 1987,

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-rents-lettings-and-tenancies>, accessed 20.4.2023

⁷⁸ Bank of England, *Monetary Policy*, <https://www.bankofengland.co.uk/monetary-policy-report/2023/may-2023>, accessed 23.5.23

⁷⁹ Archived Petitions UK Parliament *Stop the take over of Howe Barracks by the London Borough of Redbridge*, <https://petition.parliament.uk/archived/petitions/131308>, accessed 29.4.2023

Chart 10: Vacant dwellings in Kent districts

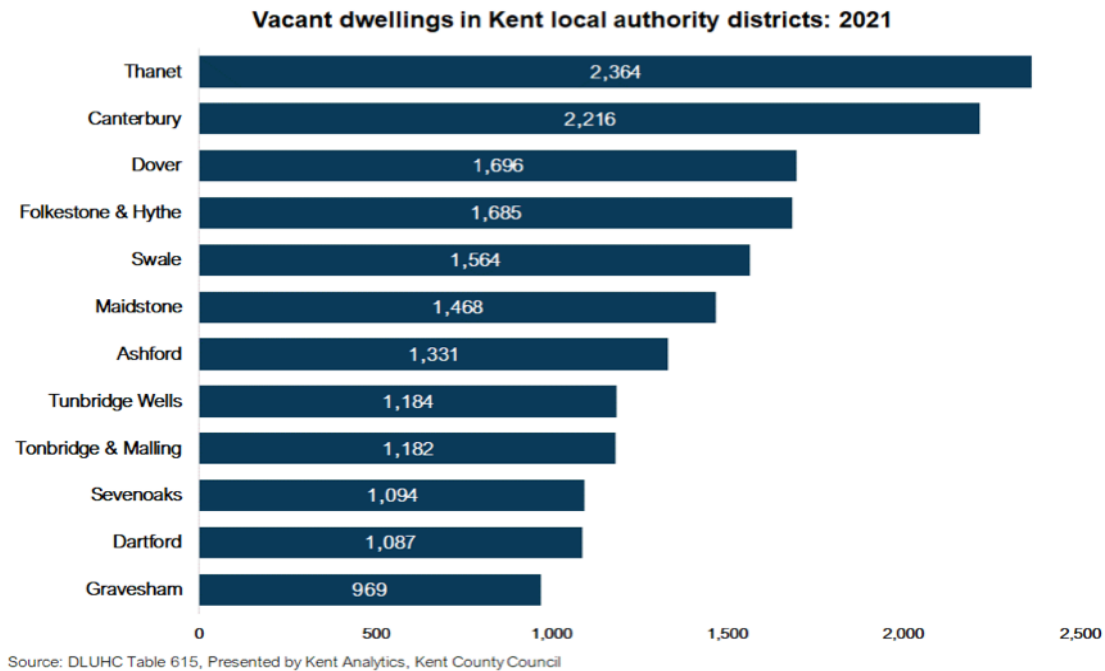


Figure 2.1 vacant dwellings in Kent districts 2021; Source: Kent Analytics, KCC

Clarification (H) : If a significant number of local people voice opposition to the new draft local plan in 2023 will this indicate ‘Proportionate and Effective engagement’ between plan-makers and communities ?

15. Plans should...

- b) **be *shaped* by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, *infrastructure providers* and operators and statutory consultees;** ⁸⁰

Local Plan Inspector, Mike Moore writes in 2017:

Consultation

6. Concern has been expressed at the Council’s pre-submission consultation process....

The public consultation was full and wide-ranging, **engendering a significant response, *including many critical of the LP*. This indicates that the consultation process gave residents and other interested persons an adequate opportunity to express their views.**

⁸⁰ NPPF (2021), Chapter 3 Plan-making, para 16 c)

If a '**wide section of the community**' was engaged; there was a '**significant response**', including **many critical of the local plan**, it is possible that the consultation was not effective and it had not been a 'creative', 'collective enterprise' ⁸¹. Advantages of *effective* public engagement ⁸² listed by the Local Government Association include 'to govern by consent'. The previous local leadership lost the election after many years. This suggest the pre-submission process may not have been effective:

Advantages of *effective* public engagement:

- to **improve planning, policy and decision making**
- to ***govern by consent***
- to ***shape council activities around residents' needs and aspirations***

Clarification (I) : Is it acceptable for CCC to use a Statement of Community Involvement dated 2019, that predates requirements of NPPF (2021) for community involvement 'throughout the planning process'?

The 2021 version of the National Planning Policy Framework increases the requirement for community involvement in planning in Chapter 12:

12 Achieving well-designed places

126 Good design... ***helps make development acceptable to communities***. Being clear about ***design expectations***, and ***how these will be tested***, is ***essential*** for achieving this. So too is ***effective engagement*** between ***applicants, communities, local planning authorities*** and other interests ***throughout the process***.

However, Report Examiner, Mike Moore did not think CCC had an obligation to update their Statement of Community Involvement in 2017 to reflect the fact that one of the principal purposes for the introduction of the National Planning Policy Framework in 2012 was to 'allow people and communities into planning' and make it a 'creative', 'collective enterprise':

'Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.

Planning should be a collective enterprise...

⁸¹ NPPF Ministerial foreword by the Rt Hon Greg Clark MP (2012)

⁸² Local Government Association, *Our Support Section 4: Consulting Residents*, <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/resident#:~:text=to%20improve%20planning%2C%20policy%20and,new%20information%2C%20ideas%20and%20suggestions>, accessed 30.4.2023

By replacing over a thousand pages of national policy with around fifty, written simply and clearly, ***we are allowing people and communities back into planning.***⁸³

Examination Report:

6. Concern has been expressed at the Council's pre-submission consultation process....

However, on the evidence before me the Council has *generally* followed the principles set out in its **adopted Statement of Community Involvement (SCI) (2007)**. Although **this predates the Framework**, this accords with its aim of engaging a wide section of the community

Clarification (I): Can the Planning Inspectorate assist CCC to avoid duplication between the Local Plan and the Corporate Plan, to achieve public spending 'efficiency' and 'effectiveness' ⁸⁴ and more effective and transparent public engagement?

The local plan must be seen jointly with the corporate plan: they cover the same *geographical area* and one makes no sense without the other. NPPF (2021):

16. Plans should ⁸⁵:

e) serve a clear purpose, ***avoiding unnecessary duplication of policies*** that apply to a particular area (including policies in this Framework, where relevant).

There is a statutory duty for consultation on both: Community Involvement, evidenced by the SCI ⁸⁶ for the local plan and Duty to Consult in the case of the Corporate Plan.

KCC, CCC and the national government are all heavily in debt. In the case of the national government, public debt was 100.2% of GDP ⁸⁷ in September 2022 and there was negative economic growth.

Box 1.1: standards expected of all public services

honesty fairness impartiality openness accountability integrity transparency objectivity
accuracy reliability
carried out

⁸³ NPPF Ministerial foreword by the Rt Hon Greg Clark MP (2012)

⁸⁴ Best Value Duty: 'economy, efficiency and effectiveness' see footnote 2

⁸⁵ NPPF (2021), Chapter 3 Plan-making, para 16 e)

⁸⁶ Statement of Community Involvement

⁸⁷ Office of National Statistics, *Main Points*,

<https://www.ons.gov.uk/economy/governmentpublicsectorandtaxes/publicspending/bulletins/ukgovernmentdebtanddeficitforeurostatmaast/september2022#:~:text=1.-,Main%20points,equivalent%20to%204.4%25%20of%20GDP>, accessed 22.5.23

in the spirit of, as well as to the letter of, the law in the public interest
to high ethical standards
achieving value for money

Fig 3.1 Box 1.1 standards expected of all public services (HM Treasury)

Anecdotally, it is not widely known that CCC's has a corporate disposal's policy. In fact, public assets do not belong to the Council they belong to the public and must be managed on behalf of the public transparently in the public interest. Assets should not be sold without ensuring **Best Value Duty** and **Duty to Consult** has taken place.

What our Corporate Plan Priorities mean ⁸⁸

We will:

- create a new **Disposals Policy**, to **sell** those of **our assets** that are **not contributing to our economy** or other priorities, and to reinvest the money that generates, with a focus on redevelopment and *regeneration*

Canterbury District is largely rural with few brownfield sites that could be 'regenerated' The word 'regeneration', in this context, largely means building roads and housing estates on greenfield ie 'urbanisation', as shown by the road building plans for Canterbury District outlined in the East Kent Growth Framework Final Report 2017 ⁸⁹

The idea that in the 21st century road building and traditional brick, concrete and tarmac building over green field will result in economic growth rather than using this land in combination with local strengths in the creative industries to, for example, invest in green innovation should at least be open for public debate.

The same road building agenda has been followed since the Strategic Housing Market Assessment of the East Kent Sub Region in 2009 and has resulted in cumulative heavy metal, hydrocarbon and microplastics from road run off adding to the toxic mix of foul effluent in rivers, which is damaging rather than helping the local economy, social well-being and increasing flood risk. The report itself recommends:

'Linking the housing offer to the natural environmental attractiveness of East Kent is an important marketing element.' ⁹⁰

⁸⁸ Canterbury Gov Uk, Corporate Plan 2021-2024 *What our Corporate Priorities mean*, <https://www.canterbury.gov.uk/strategies-and-policies/corporate-plan-2021-2024/what-our-corporate-plan-priorities-mean>

⁸⁹ Ashford Council, East Kent Regeneration Board, *East Kent Growth Framework Final Report*, Dec 2017, <https://www.ashford.gov.uk/media/m4njoshw/gbd24b-east-kent-growth-framework-final-report-300118.pdf>, accessed 23.5.23 Road building plans <https://www.ashford.gov.uk/media/m4njoshw/gbd24b-east-kent-growth-framework-final-report-300118.pdf>

⁹⁰ *Strategic Housing Market Assessment of the East Kent Sub Region June 2009*, accessed 20.5.23

But does not appear to show how sustainable development will be achieved to combat the ways in which road building and traditional construction will pollute the environment and make the natural environment less attractive.

Effective public consultation ⁹¹ is required by Duty to Consult ⁹² and would make it possible:

- to *make better use of resources*
- to **access new information, ideas and suggestions**

Best Value Statutory Guidance ⁹³

1. Under the Duty of Best Value, ..., authorities should consider overall value, including economic, **environmental** and **social** value, when reviewing service provision
2. To achieve the right balance – and **before** deciding how to fulfil their **Best Value Duty**– authorities are under a **Duty to Consult** representatives of a wide range of local persons; **this is not optional**. Authorities must consult representatives of council tax payers, **those who use or are likely to use services provided by the authority ..**
5.Authorities should make provision for the organisation, **service users**, and **wider community to put forward options** on how to reshape the service or project. *Local authorities should assist this by making available all appropriate information*, in line with the government's [transparency agenda](#)

Clarification (K): Can Social Care be included in the Local Plan and subject for Public Engagement, Duty to Cooperate and Statement of Common Ground?

Social care is in crisis and is an area where its inclusion and public engagement **through the local plan** could potentially create more stability and efficiency: KCC Council Leader , Roger Gough wrote to the PM, Chancellor and Secretary of State 14.11.22 of

⁹¹ Local Government Association, *Our Support Section 4: Consulting Residents*, <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/comms-hub-communications-support/resident#:~:text=to%20improve%20planning%2C%20policy%20and,new%20information%2C%20ideas%20and%20suggestions>, accessed 30.4.2023

⁹² Section 3(2) of the Local Government Act 1999 (as amended by s137 of the Local Government & Public Involvement in Health Act 2007)

⁹³ Communities and Government, *Best Value Statutory Guidance*, Sep 2011, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/5945/1976926.pdf, accessed 21.5.23

KCC financial inability to meet social care obligations within budget over the next years even if libraries and free school transport for special needs children are cut.

A particular concern is accommodation and specialist care for adults with learning difficulties and/or autism ⁹⁴. A current amendment to the Mental Health Act means that it will no longer be legal to lock these people up in psychiatric institutions when they do not have a psychiatric condition and exhibit behaviours associated with autism and/or learning difficulties alone e.g. an adult with autism showing distressed socially inappropriate behaviours caused by becoming overwhelmed/overstimulated through lack of specialist provision; an adult with learning difficulties showing behaviours of a baby or child. The situation is unstable, CCC and KCC have outsourced provision which is largely provided by chains running on debt, financed by foreign equity. Homes have been sold, CQC ⁹⁵ registers falling standards and there is chronic understaffing.

Mental health support for young people and men is also needed: male suicide rate in Canterbury District 2017-19 was 22 per 100,000, the *highest* in the country⁹⁶

Clarification (L): Should the new leadership try to avoid causing the concerns expressed about draft local plan consultation 24 October 2022-16 January 2023?

- Anonymised informal survey 15 and 17 Jan 2023 at Canterbury bus station, 22 out 30 people unaware of local plan. Least awareness: young people, students and workers commuting to Canterbury. (In person consultations had taken place over 2 years previously – are new in person consultations required?)
- Anecdotal complaints of difficulty in understanding the documents. The plan itself was a series of individual planning applications without overview that had to be accessed sequentially on line, with policies only available at the end. Oaten Hill and South Canterbury Association reported it took an hour to complete. (Should it be made simpler?)
- Anecdotal complaints of confusion about plans for the largest urbanisation the South Canterbury Urban Extension which was outlined in another ink colour to other proposed sites on the spatial development strategy map, with no explanation to the significance of the ink colour. Some assumed it would be left as green field, since the press reported planning consent had been quashed at Judicial Review in November 2021. Others did not know there had ever been a plan to put 4,000 houses on the land in the first place. (Is it necessary to improve map labelling?/use digital layered map?)

⁹⁴ This is a duty under the Care Act 2014 and Autism Act 2009

⁹⁵ Care Quality Commission

⁹⁶ KCC, Transforming Health and Social Care Kent and Medway, *Suicide and Self-harm Data and Evidence Update*, Jan 2021 v3, accessed 21.5.23

Complaints that this uncertainty meant they could not comment in an informed way about developments for other sites which would be impacted by the extension.

- people with protected characteristics could not comment ⁹⁷:
 - elderly (Oaten Hill and District Resident Association reported older people had struggled to understand and use the website);
 - low income BAME without internet, who could not afford £34.50 for the lengthy paper copy

no adaptation for:

- learning disabled
 - non-native English speakers
- despite changing circumstances, since its approval in the 2017 local plan, there was no possibility to comment on the largest major development in the district the South Canterbury urban extension, which has been the subject of legal dispute on numerous grounds, with a challenge on environmental grounds from the previous JR still outstanding. It was approved by Council again in December 2022 (Can more effective use be made of this land?)

Clarification (M): Can CCC be supported to produce effective specifications for building, tree planting, maintenance and enforceable penalties for developer who failure to meet agreements.

Tree retention, planting and maintenance specification

131. Trees ...can ... help mitigate and adapt to climate change. ⁹⁸

Trees stabilise the land, absorb water and prevent flooding. Can the planning inspector intervene to ensure that policies for tree planting specifications include a protective frame when planted in an urban area?

Howe Barracks Builder Taylor Wimpey. Landscaping CSA Environmental. Mature trees felled ; saplings snapped within weeks of planting: landscaping CSA Environmental

⁹⁷ The Equality Act 2010 requires that reasonable adjustments are made to allow people with protected characteristics to access information

⁹⁸ NPPF (2021) Chap 12, Achieving well-designed places, para 131



Fig 4.1 Howe Barracks, sapling snapped within weeks of planting

131. Planning policies and decisions should ensure that ...***appropriate measures are in place to secure the long-term maintenance of newly-planted trees***⁹⁹

Saplings not replaced despite repeated requests and Cllr involvement



November 2021



January 2023

Fig 4.2 Cathedral view: snapped tree reported Nov 2021, not replaced Jan 23



November 2021



January 2023

⁹⁹ NPPF (2021) Chap 12, Achieving well-designed places, para 131

Fig 4.2 Howe Barrack another snapped tree not replaced (one of many)

Clarification (N): Can Council planning policies require/incentivise reuse of materials and retention of mature trees during new build?

Rationale:

The Presumption in favour of achieving sustainable development ¹⁰⁰

For **plan-making** this means that:

11 a) all plans should promote a sustainable pattern of development that seeks to: ***mitigate climate change*** (including by ***making effective use of land in urban areas***) and adapt to its effects;

131 Planning policies and decisions should ensure that ... ***existing trees are retained wherever possible....*** ¹⁰¹

Figure 4.3 Mature trees, gardens and well maintained houses raised to the ground New Dover Road July 2021, adding to surface water flood risk.

Google earth screen shot showing 3 of the 4 houses to be demolished, July 2021



Builders pulling down the houses explained that the building materials would *not* be reused,



Some of the remnants of felled trees October 2021

¹⁰⁰ NPPF (2021), Chapter 2 Achieving Sustainable Development , *Presumption in favour of Sustainable Development*, para 11a

¹⁰¹ NPPF (2021) Chap 12, Achieving well-designed places, para 131



Google earth screen shot after demolition, 6 April 2023: little surface area for drainage, Congested traffic next to the site



Clarification (O): Is it possible for plan-makers to put in penalties for builders who cause pollution (including cumulative) during and/or after construction?

174 Planning policies and decisions should contribute to and enhance the natural and local environment by: ¹⁰²

- e) **preventing new and existing development** from contributing to, being put at unacceptable risk from, or being adversely affected by, **unacceptable levels of soil, air, water or noise pollution or land instability.**

183. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (**including cumulative effects**) of pollution on **health**, living conditions and the **natural environment** ¹⁰³

New development has taken place on both sides of the chalk Great Stour, both sides drains into the river which is in the Stour Valley flood zone. The river banks are not protected and are eroding with risk to the river side trees. Construction at the Kingsmead Riverside development uses concrete and there is silt in the river near the construction site. Prior to construction the river was crystal clear and full of fish, it is now mud colour.

¹⁰² Chap 15, Conserving and enhancing the natural environment, para 174 e)

¹⁰³ NPPF(2021) Ground conditions and pollution para 185



Figure 5.1 Great Stour Kingmead Riverside construction eroding river bank

Clarification (P): Can the Inspectorate verify a positive vision for CCC that is aspirational but deliverable?

15. Succinct and up-to-date plans should provide a **positive vision for the future** of each area...¹⁰⁴

b) be prepared positively, in a way that is aspirational but deliverable; ¹⁰⁵

It is not clear that the current aim: ‘recover then grow’ is deliverable through a disposals policy and developer led house building and road building strategy over fields, orchards and woodland.

Right Development

Local Housing Needs :

Property is an asset like any other on the global market. Local wages cannot compete in an unregulated market that allows purchase by investment companies, multiple private ownership and foreign ownership. The situation in 2009 reported in the Ecotec Strategic Housing Market Assessment East Kent Subregion analysis ¹⁰⁶ that developer led new build will not produce sufficient affordable housing to meet local needs as a by

¹⁰⁴ NPPF (2021) Chap 3, Plan-making, para 15

¹⁰⁵ ibid para 16 b)

¹⁰⁶ *Strategic Housing Market Assessment East Kent Subregion Report 2009*,

<https://www.dover.gov.uk/Planning/Planning-Policy/PDF/Strategic-Housing-Market-Assessment-for-the-East-Kent-Sub-Region.pdf>

Strategic Housing Market Assessment East Kent Subregion Report 2009,

<https://www.dover.gov.uk/Planning/Planning-Policy/PDF/Strategic-Housing-Market-Assessment-for-the-East-Kent-Sub-Region.pdf>

product, remains the same in 2023 . In fact, affordability has worsened through inflation despite a slight fall in local house prices and falls the global housing market¹⁰⁷

‘L Meeting housing needs

It is clear from our analysis that the volume of housing need that is currently arising and will be arising into the future is such that it is inconceivable that it will be met.’

There is no causal link between *population* growth and *economic* growth: South Sudan has the 2nd highest population growth in the world, but is one of the poorest nations. Bulgaria (now a lower middle income economy) saw **population shrink** by **0.9% in 2022** but had a **GDP growth rate of 3.4%**. According to the European Commission analysis a tight labour market *strengthened* the economy¹⁰⁸:

Right Place

The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. ¹⁰⁹

- unacceptable opportunity cost of further unaligned urbanisation of agricultural land for poorly built estates and ‘office space’. It may provide CCC with property tax jobs in a few construction jobs in the short-term but will damage rather than improve the local economy mid and long term and does nothing to improve affordability eg South Canterbury Urban Extension.

Opportunity costs:

- UNESCO heritage status
- tourist /spiritual offering e.g. linking between Via Francigena and Maison Dieu, Dover
- Increased farm yields due to climate and soil
- Innovation and investment in technologies of the future: food production, energy, waste reuse, climate change mitigation
- Climate change mitigation and biodiversity increase e.g. expanding areas rich in biodiversity
- local talent and wealth from people choosing to live and invest locally
- Health and social well-being

¹⁰⁷ IMF, *House prices continue to fall as borrowing costs rise*, March 15 2023, <https://www.imf.org/en/Blogs/Articles/2023/03/14/house-prices-continue-to-fall-as-borrowing-costs-rise>, accessed 24.5.23

¹⁰⁸ European Commission Economy and Finance, *Economic Forecast for Bulgaria*, https://economy-finance.ec.europa.eu/economic-surveillance-eu-economies/bulgaria/economic-forecast-bulgaria_en#:~:text=Real%20GDP%20grew%20by%203.4,a%20very%20tight%20labour%20market, accessed 24.5.23 ‘Real GDP grew by 3.4% in 2022 on account of strong private consumption and exports. Real household consumption growth accelerated in the second half of 2022, supported by expansion in disposable income in the context of a very tight labour market.’

¹⁰⁹ NPPF (2021) Chap 6 *Building a strong, competitive economy*, para 81

The local economy needs to urgently diversify and build on its local strengths: creative industries, academic and professional expertise, engineering, medicine etc and counter local risks and threats, particularly flooding of the Stour River Valley basin; and coastal areas.

It serves the national interest to preserve agricultural land in Kent. It does not make effective use of land to continue with developer led urbanisation of nationally important crops that cannot be grown as efficiently elsewhere ¹¹⁰ ($\frac{2}{3}$ of tree grown fruit; $\frac{1}{3}$ strawberries in the UK)

The principle of units of biodiversity offsetting to compensate for urbanisation of green field is only effective where there are degraded urban areas to reclaim. In a district that is predominately rural it is better to protect and enhance existing greenfield and exploit the multiple economic, social and climate change mitigation uses it has: 'in certain parts of the world, there is simply not enough land for offsets to adequately counterbalance future biodiversity losses, even if gains can be achieved' ¹¹¹

Right Time

- essential to allow water supply, waste water, surface water mitigation and flood defence to catch up with new build that has been built or is in the process of construction, *before* starting more work on green field, *including using SUDs schemes*.

Regarding the South Canterbury Urban Extension, the Examiner stated in 2017:

145. The mitigation measures will require a considerable commitment from the developer and the local Councils. ***Development would need to be phased in accordance with the delivery of the key infrastructure.***

Provided that the necessary measures *are introduced successfully* the residual cumulative impacts of the development are ***unlikely*** to be so significant that they ***could be regarded as severe.*** `

Corollary: If the necessary measures are not introduced successfully the residual cumulative impacts of the development are *likely to be so significant that they could be regarded as severe.*

The precedent of Greenhill where the nearby Gorrell stream turned into an open sewer ¹¹² indicate that phasing with key infrastructure is unlikely.

¹¹⁰ Part 2 Agriculture Sector Summary *Climate Change and Risk Assessment for Kent and Medway* June 2020 https://www.kent.gov.uk/_data/assets/pdf_file/0016/111382/CCRIA-for-Kent-and-Medway-part-two-agricultural-sector-summary.pdf.pdf

¹¹¹ International Union for Conservation of Nature (IUCN) *Biodiversity Offsetting requires lots of land* (April 2020) <https://www.iucn.org/news/business-and-biodiversity/202004/biodiversity-offsetting-requires-lots-land> (accessed 16.5.23)

¹¹² <https://www.kentonline.co.uk/whitstable/news/probe-as-sewage-found-flowing-into-towns-hidden-river-267489/>

The economy, nature, heritage and public health are too nationally important for plan-makers to leave waste water and surface water management as a 'reserved matter' for the discretion of Severn Trent who has polluted water and been convicted of fraud and criminality consistently since April 2008, with 461,135 hours of raw sewage discharge in 2021, the second worst record in the UK and 3 times the amount of Southern Water.¹¹³

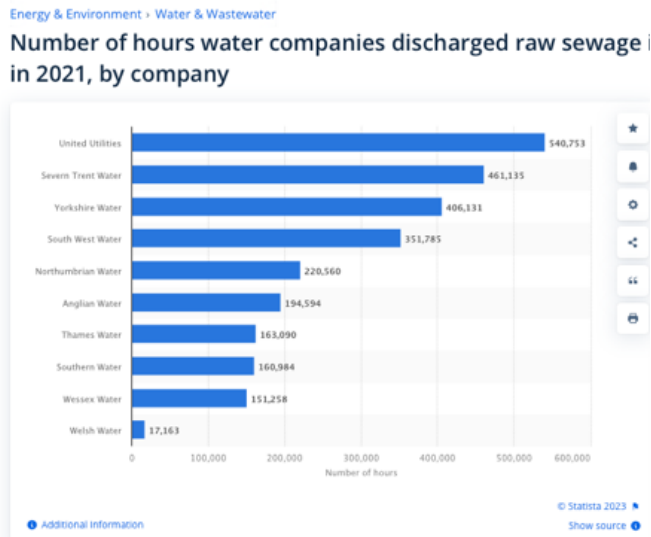


Figure 6.1 Number of hours water companies discharged raw sewage in 2021 by company;
Source Statista 2023

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- the Senior Management Team:
 - Suzi Wakeham, Director of People and Place (this includes planning, housing, the environment and community safety);
 - Peter Davies, Director of Strategy and Improvement (includes policy and digital)

¹¹³ Statista, Erik Burgueño Salas, 17.4.23, *Number of times water firms discharged raw sewage into England waterways 2021*, <https://www.statista.com/statistics/1180118/water-company-sewage-spills-england-rivers/>, accessed 23.5.23

- Tricia Marshall, Head of Paid Service and Corporate Services (robust financial plans to support council objectives)