



Report to Ashford Borough Council

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MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Date: 8th February 2010

PLANNING AND COMPULSORY PURCHASE ACT 2004

SECTION 20

**REPORT ON THE EXAMINATION INTO THE ASHFORD TOWN CENTRE
AREA ACTION PLAN**

DEVELOPMENT PLAN DOCUMENT

Document submitted for examination on 13 July 2009

Examination hearings held between 27 October and 6 November 2009

File Ref: PINS/E2205/429/6

1 Introduction and Overall Conclusion

- 1.1 Under the terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004, the purpose of the independent examination of a development plan document (DPD) is to determine:
- (a) whether it satisfies the requirements of s19 and s24(1) of the 2004 Act, the regulations under s17(7), and any regulations under s36 relating to the preparation of the document
 - (b) whether it is sound.
- 1.2 This report contains my assessment of the Ashford Town Centre Area Action Plan (TCAAP) DPD in terms of the above matters, along with my recommendations and the reasons for them, as required by s20(7) of the 2004 Act. The starting point for my examination has been the published Plan, including the Council's Schedule of Proposed Amendments.
- 1.3 I am satisfied that the DPD meets the requirements of the Act and Regulations. My role is also to consider the soundness of the submitted Ashford Town Centre Area Action Plan against the advice set out in paragraphs 4.51-4.52 of Planning Policy Statement 12 (PPS12). In line with national policy, the starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or to make the document sound in accordance with PPS12. None of these changes should materially alter the substance of the overall plan and its policies, or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.4 My report firstly considers the legal requirements, and then deals with the relevant matters and issues considered during the Examination in terms of justification, effectiveness and consistency with national policy. My overall conclusion is that the Ashford Town Centre Area Action Plan is sound, provided it is changed in the ways specified. The principal changes which are required are, in summary:
- a) Revision of the retail/leisure floorspace and housing provision*
 - b) Revisions to the Southern Expansion Quarter (SEQ) chapter*
 - c) Deletion of the Shopping Frontages Policy*
 - d) Amendments to the Proposals Map*

The report sets out all the detailed changes required, including those suggested by the Council, to ensure that the plan meets the legal requirements and the three tests of soundness.

2 Legal Requirements

- 2.1 The Ashford Town Centre Area Action Plan DPD is contained within the Council's Local Development Scheme (LDS), the original version

being approved in March 2005 and reviewed in July 2008. It is shown as having a submission date of July 2009 and the content of the TCAAP is as anticipated in the LDS.

- 2.2 The Council's Statement of Community Involvement (SCI) has been found sound by the Secretary of State and was formally adopted by the Council before the examination hearings were taking place. It is evident from the documents submitted by the Council, including the Regulation 30 (1) (d) and 30 (1) (e) Statements and its Self Assessment Paper, that the Council has met the requirements as set out in the Act and Regulations.
- 2.3 Alongside the preparation of the DPD it is evident that the Council has carried out a parallel process of sustainability appraisal.
- 2.4 In accordance with the Habitats Directive, I am satisfied that an Appropriate Assessment has been undertaken and that there would be no significant harm to the conservation of any European sites as a result of the policies and proposals within this DPD.
- 2.5 Subject to my findings and recommendation in respect of the Shopping Frontage Policy, considered under Matter 2, I am satisfied that the DPD is consistent with national policy.
- 2.6 The South East England Regional Assembly has indicated that the DPD is in general conformity with the approved Regional Spatial Strategy and I am satisfied that it is in general conformity.
- 2.7 I am satisfied that the DPD has had regard to the sustainable community strategy for the area.
- 2.8 I am satisfied that the DPD complies with the specific requirements of the 2004 Regulations (as amended) including the requirements in relation to publication of the prescribed documents; availability of them for Inspection and local advertisement; notification of DPD bodies and provision of a list of superseded saved policies.
- 2.9 Accordingly, I am satisfied that the legal requirements have all been satisfied.

3 Justified, Effective and Consistent with National Policy

MATTER 1 – WHOLE PLAN

Reasoning

- 3.1 Ashford is identified as a regional Growth Area by Policy EKA1 (Core Strategy) in The South East Plan. It indicates that Ashford should develop "*..as an office, research and business node, providing market growth for the sub-region as a whole, and opportunity for*

large investments..". The town centre is highlighted in para 18.16 as requiring improvement to facilitate sustainable growth –"..it will be necessary to improve the physical fabric of the area, reduce severance caused by the town centre road network and create a high quality public realm and network of open spaces".

- 3.2 The future role of the Town Centre was considered a "*..focus of substantial and concentrated mixed use development..*" and a key to delivering the overall growth model (paras 3.2/3) within the Council's Core Strategy (ED5) which quantifies a requirement for 8,000 new jobs through the provision of 94,000sqm of new retail/leisure floorspace and 76,200sqm of new office development by 2021. It also identifies the need for 2,500 new dwellings in the Town Centre (Policy CS3).
- 3.3 The AAP provides a Vision for the Town Centre and clearly articulates its role as a crucial aspect of the 'compact' model for the wider growth area described in the Core Strategy. The *Issues and Opportunities in the Town Centre* underpins *The Way Forward* and, together, these provide a basis for a *Design Agenda* leading to the identification of Guiding Principles in Policy TC1.
- 3.4 The Plan looks at the Town Centre as a series of 'quarters' and sets out a policy approach for each, including indicative targets for new development and site specific proposals. The Southern Expansion Quarter, which is separated from the historic core by the domestic and International railway lines, is the main focus for delivering growth. It is the most controversial proposal and drew a significant amount of representation, dealt with largely under Matter 5.
- 3.5 I am satisfied that the Vision and Objectives reflect those of the Core Strategy, and specifically Policy CS3. The present economic climate inevitably casts doubt on the feasibility of achieving the vision within the timescale, certainly in terms of the amount of commercial floorspace, and consequent number of jobs. The Council accepts this and I concur with its belief that the scale and breadth of allocations provides a sustainable template for growth that can respond to market conditions. I also consider that there is sufficient flexibility built into the Plan to enable the market to respond in a confident and sustained manner.
- 3.6 Other than the issues dealt with in detail under Matters 2 – 9, below, there are two issues under Matter 1 that I consider should be addressed. The first is concerned with the Design Aims for the Town Centre, where advice is provided concerning the height and form of buildings, and this advice is followed through into Policy TC1, guiding principle F. The advice and the guiding principle stipulate a building form of 4-6 storeys which may be appropriate when considering individual streets and locations, but in the wider context I consider to be too prescriptive. A general limitation on building height and form has not been properly justified and would

be inflexible in practice. Amendments are also necessary to paragraphs 1.44 and 1.46 for similar reasons.

- 3.7 The second issue concerns Policy TC25 – Commuted Parking where the Council has accepted that additional explanation is necessary to ensure that commuted payments may also be used in respect of the proposed SMARTLINK bus service. It has suggested additional text to be inserted following paragraph 3.52 to clarify the matter.
- 3.8 There is a suggestion for a further guiding principle to be inserted in Policy TC1, together with explanatory text regarding the importance of taking account of climate change in development. It is not necessary to include these suggestions to achieve soundness since Policy CS10 in the Core Strategy deals adequately with the matter and development within the Town Centre introduces no new issues.

Conclusions in terms of soundness

- 3.9 So far as the remainder of the Plan is concerned, apart from matters dealt with in detail under Matters 2 – 9, below, I consider it necessary for soundness to amend both the design advice regarding building height and form, and guiding principle F of Policy TC1. I also consider it necessary to include the additional paragraph proposed by the Council under 3.52 to provide the additional explanation regarding commuted payments.

The changes needed to make the DPD sound

Policy TC1- Guiding Principles

Amend guiding principle F:

“F) Create attractive and vibrant main streets by achieving appropriate building forms fronting these streets, with active ground floor frontages, proportionate heights, and uses that respond to the agreed hierarchy of streets and open spaces.”

Paragraph 1.44

Amend the final sentence: “Along the wider main streets the height of buildings should be proportionate to the width of streets and create a strong sense of place.”

Paragraph 1.46

Delete the first sentence and amend the second sentence: “Higher buildings may be justified in urban design terms in certain locations. These will include the Commercial Quarter, and close to the railway stations...”

Policy TC25 – Commuted Parking

Insert additional text following paragraph 3.52:

"3.52a Commuted payments received through the application of Policy TC25 may also be used to support the associated bus service which operates from the Park and Ride sites to the town centre, whether this is part of the SMARTLINK network or a bespoke service."

MATTER 2 – RETAIL & OFFICE FLOORSPACE PROVISION AND RELATED ISSUES

Reasoning

- 3.10 The quantities of new retail/leisure and office floorspace required to deliver the 8,000 new jobs within the Town Centre have been revised from those shown in the Core Strategy (para 3.3). The Inspector examining the Core Strategy concluded that "*..the aspirations for growth in the town centre are challenging but not unrealistic..*". However, since his report an Employment Land Review 2008 (ELR) has been undertaken. This indicates a greater focus on the delivery of town centre office development: in the order of 93,000sqm by 2021, an increase of nearly 17,000sqm on the Core Strategy quantity.
- 3.11 The AAP has sought to maintain the overall development level broadly the same so that the quantum of retail/leisure floorspace has been reduced to 77,200sqm (57,000sqm after adjusting for the 19,000sqm already provided through the County Square shopping mall extension) to accommodate the increase in office floorspace. No reasoned justification is given for this reduction except as a 'book balancing' exercise.
- 3.12 A further complication is that para 2.4 in the AAP refers to a net indicative figure of around 57,000sqm new leisure/retail floorspace, whilst the resulting job creation referred to in para 2.5 appears to be calculated on the same quantity as a gross floorspace figure.
- 3.13 Evidence to justify the quanta includes an extrapolated figure for comparison goods to 2021 and additional work by Savills (2008 and 2009) on convenience goods. Nevertheless there appears to be agreement between the Council and representors regarding an adjustment to the overall retail capacity. This refers to the capacity calculations in the Core Strategy being for the Borough as a whole. The result, set out in a Position Statement submitted to the Examination, suggests a rounded total of between 65 – 70,000sqm for the Town Centre by 2021. This higher total remains lower than that sought in the Core Strategy and appears to be a justified and realistic quantum. Nevertheless there is no doubt its achievement in the present economic climate may prove as challenging as the Core Strategy Inspector indicated.
- 3.14 The issue of the proportion of the increased total that should be attributed to the Town Centre Core, and whether any should be attributed to the Southern Expansion Quarter (SEQ) must also be

addressed. The Council's preference would be for all the additional capacity to be attributed to the Core whilst the representors would prefer a proportion – 40% - to be allocated to the SEQ. I consider it would be unrealistic to apportion the whole of the increase to the Core on the basis of the limited additional capacity that could be created within the existing street pattern and built fabric.

Conversely I do not favour a large increase for the SEQ for fear of weakening the attraction of the historic centre, already acknowledged as facing strong competition from other centres. This concern is reflected in the conclusions of the latest report by Savills for the Council (March 2009).

- 3.15 It has been suggested that the retail and leisure elements in the indicative quanta table should be split into two columns and the retail column split into comparison and convenience floorspace. This follows similar representations at the Preferred Options Stage but very little evidence is provided in support. Bearing in mind the difficulties in forecasting over relatively short time periods it would be a somewhat meaningless exercise to attempt to split the tables over the Plan period.
- 3.16 A Shopping Frontage Policy has been included in the AAP as a topic based issue. The objective is given as "*to retain and promote the vibrancy and vitality of the traditional heart of the town centre through the concentration of A1 retail uses*". It is essentially a development control policy rather than forming part of the proposals for achieving significant change which is the basis for Policy CS3 in the Core Strategy. It is, of course, necessary to provide a policy framework for the determination of planning applications, but that framework must have regard to national policy.
- 3.17 In this instance PPS6 provided the national policy, fundamentally requiring the authority to define the extent of the primary shopping area (psa). This requirement has been carried forward into the new PPS4, published in December 2009. The AAP does not do this and the suggestion that it is difficult to define where the psa might be at the end of the Plan period does not hold water. The objective quoted above specifically relates the Policy to the traditional heart of the centre which must be capable of definition as of now.
- 3.18 The Policy also fails to follow national guidance in that it does not distinguish between primary and secondary frontages but identifies three separate frontages for which separate policies are provided, based on preventing the cumulative amount of non-A1 uses exceeding stated percentages of the frontages. In each case the percentage selected appears to relate to the present position, effectively preventing further changes. There is no persuasive evidence that local justification exists for the inconsistency with national policy.

Conclusions in terms of soundness

- 3.19 The arbitrary nature of the balancing exercise between office and retail/leisure floorspace is unsound and must be addressed in order for the Plan as a whole to be sound. To achieve this, a revised Table of Indicative Quanta of Development is necessary, together with a substantially revised justification in paragraphs 2.2 – 2.5.
- 3.20 In order for the Plan to be sound, judged against the requirement for it to be consistent with national policy, the Shopping Frontage Policy should be deleted in its entirety, together with the shopping frontages inset map, and the change to the Proposals Map showing the Primary, Bank Street and Middle Row retail frontages should not be made. It is necessary to delete the existing policies SH3 and SH4 from the list of policies to be replaced in order to give an interim measure of control until the issue of shopping frontages can be reviewed through a subsequent DPD.

The changes needed to make the DPD sound

Paragraphs 2.2, 2.3, 2.4 and 2.5

Delete the existing text and substitute with:

"In 2008, the Council commissioned an Employment Land Review (EDR) for the Borough which is a key part of the evidence base to support this Plan. The Review concluded that, in order for the Ashford Growth Area as a whole to meet its job creation targets by 2021, there should be a greater focus on the delivery of town centre office development in the order of 93,000sqm by 2021.⁽¹⁾ To take account of this more recent advice than that in the Core Strategy the Plan has been amended to increase the amount of office floorspace."

"The suggested quantum of retail/leisure floorspace in para 3.3 of the Core Strategy has also been reviewed. Account has been taken of the contribution to the overall target – some 19,000sqm of retail floorspace – resulting from the extension to the County Square, which opened in March 2008. Although more recent evidence of retail need to 2021⁽²⁾ indicates that a lower amount of new retail floorspace provision is more realistic, the Core Strategy highlights the importance of significant retail expansion to help raise the profile of the Town Centre, stem the leakage of shoppers to other competing centres, and ensure the need of the rapidly growing population is met. The revised gross indicative figure of around 70,000sqm of new gross retail/leisure floorspace remains challenging for Ashford to accommodate by 2021 and would more than meet the needs of the rapidly growing population whilst significantly raising the town in the retail hierarchy."

"Based on a relatively conservative average standard job density of 1 job per 20sqm gross floorspace for both town centre offices and town centre retail⁽³⁾, the revised quanta of development (70,000sqm retail/leisure and

93,000sqm of commercial) would provide an estimated 8,150 jobs in the town centre by 2021. Applying the same standards to the extension to County Square this figure would rise to around 9,000 jobs. Furthermore, no allowance has been made for any jobs created in other growing sectors such as community/voluntary, health, cultural or educational sectors in the town centre, where some significant developments may come forward e.g. the Learning Campus."

Indicative Quanta of Development

Amend the table showing the indicative quanta of development as follows:

Quarter	Uses (sq m – gross)
	Retail/Leisure
Town Centre Core	50,500*
Commercial	2,500
Southern Expansion	8,350
International Station	4,000
Civic	1,000
Residential Transition	2,000
Totals	68,350*
<i>No. of Jobs</i>	<i>4,370**</i>

Additionally, amend the table showing the indicative quanta of development by replacing "5,500" in the row for TC12 with "5,350" under Retail/Leisure, and replacing "56,000" with "55,850" in the Totals row.

Amend the table further under Commercial by replacing "7,000" with "8,880" in the row for the Southern Expansion Quarter, replacing "93,000" with "94,880" in the Totals row; adding "1,880" to the row for TC12 and replacing "83,000" with "84,880" in the Totals row. The number of jobs under Commercial should be amended, replacing "4,650" with "4,740", whilst at the foot of the table under Commercial the number of jobs should be amended, replacing "4,150" with "4,240".

Shopping Frontage Policy

Delete the Shopping Frontage Policy, policies TC26, TC27 and TC28, the supporting text at paragraphs 3.54 – 3.77, and the Shopping Frontages inset map on p87.

Proposals Map

The proposed change to the Proposals Map showing the Primary, Bank Street and Middle Row Retail Frontages should not be made.

Appendix 1 – Schedule of superseded adopted Local Plan Policies

Delete SH3 and SH4 from the list of policies to be replaced.

MATTER 3 – HOUSING PROVISION

Reasoning

- 3.21 The Core Strategy (para 3.3) indicates that the Town Centre will seek to incorporate 2,500 new dwellings by 2021 but also advises that a contingency allowance of about 10% (Policy CS2) should be included for housing development within the Growth Area. It also indicates that the housing trajectory is ambitious (para 2.18). To be consistent with the Core Strategy the AAP allocates sites for an indicative capacity of 2,750 dwellings.
- 3.22 However, at various points in the AAP (paras 2.129, 2.149 and 2.155) reference is made to the permission granted on appeal for the former Powergen site (ref: APP/E2205/A/07/2049924). I deal with these paragraphs under Matter 5. It is clear that the Council does not agree with the scale and form of development approved. As a consequence, it has included only 50 and 600 dwellings for the two parts of the site, compared to 382 and 620 respectively in the approved scheme. This is unsound since the DPD has not taken account of matters imposed by circumstance, notwithstanding the Local Planning Authority's (LPA) views about the matter.
- 3.23 Those representing the developers made it very clear that they intend to build out the scheme in full within the Plan period. In particular the first phases, on the site for which 382 dwellings have been approved, form a key site in achieving development of the SEQ. It is highly unlikely that the developers would acquiesce to reducing the total to a mere 50 dwellings so in this respect I consider the Plan is unrealistic.
- 3.24 The site is contaminated and there are further complications involving the presence of an overhead and underground power lines. The improvement or replacement of the bridge over the railway lines and part of the Victoria Way 'great street' would clearly have to be developed in parallel and for these reasons I am doubtful that the whole scheme will be completed by 2021. Indeed, a phasing table provided by the developer, dated 14/08/2009, shows phases 8 – 11 totalling 386 dwellings starting beyond the Plan period. Nevertheless the Council has not objected to a total of 620 dwellings being included for site TC13. This change results in a total indicative capacity of 3,100 dwellings –rather more than the 10% contingency allowance in the Core Strategy. It will require ongoing monitoring in view of the ambitious nature of the housing trajectory, but I consider the higher total to be acceptable since a number of the sites included may well not deliver development within the Plan period. I also believe that a higher indicative capacity accords with the compact growth model.
- 3.25 Representations on behalf of developers in respect of the Gasworks Lane site (Policy TC14) suggest that the site is capable of

accommodating up to 500 units, reflecting the density of the development on the part of the adjacent site to the south (Policy TC13). As a consequence it is considered that the indicative quantum for the site – 300 – is unrealistically low. It is suggested the site may not be viable or deliverable if the threshold of development is unreasonably low.

- 3.26 Development of this site, and achieving in the region of 500 dwelling units within the Plan period, depends on a number of factors. Most importantly, it depends on the whole site being deliverable within the Plan period. I consider this to be optimistic. Presently the westernmost part of the site (phase 2) is occupied by an operation for the storage and distribution of gas, including a substantial gasholder. I have not been given a timescale for the decommissioning of the operation and consequent decontamination of the land, but it appears to me that a significant time period will be necessary. It seems to me, therefore, that it is unlikely that the whole site will be developed out within the Plan period.
- 3.27 The eastern portion of the site, currently in use as a depot, forms phase 1 and could be developed earlier, with a capacity in the region of 250 dwelling units according to the masterplan framework. As a result, I believe the figure of 300 dwellings included in the Indicative Quanta Table to be realistic and possibly a little generous.
- 3.28 The overall capacity of the site is influenced by the density of development and it has been suggested the height limitation on development contained within Policy TC14 would be a constraint in this respect. This may, indeed, be so and I deal with the issue under matter 5.
- 3.29 Various other issues were raised concerning the housing provision, including provision for affordable housing, mix of house types/density/composition, and assumptions regarding windfalls. In particular, the TCAAP does not supplement the Core Strategy Policy CS12 with a town centre specific policy and the Council confirmed that the provision of affordable housing within any development in the town centre should conform with Policy CS12. Additionally, an Affordable Housing SPD has been adopted which provides further guidance on the application of CS12. The Monitoring and Review Chapter anticipates a net additional affordable housing component of 825 dwellings in the town centre. This is clearly optimistic, but the Core Strategy Examination supported a step-change in the affordable housing policy, requiring at least 30% affordable housing on sites of 15+ dwellings (or more than 0.5ha). This suggests the delivery of an increased supply within the early stages of the Plan period. In all these respects I am satisfied the Plan is sound and is consistent with the Core Strategy.

Conclusions in terms of soundness

3.30 I have concluded that the Plan is sound except in respect of the Table of Indicative Quanta. It is also necessary to revise paragraph 2.8, firstly to indicate the higher total, secondly to make reference to the planning permission granted for the Powergen site, and thirdly to make specific reference to the need for ongoing monitoring.

The changes needed to make the DPD sound

Paragraph 2.8

Delete the second sentence and replace with: "The sites allocated in this AAP could accommodate some 3,100 dwellings (see also the table at the end of this chapter)."

Delete the third sentence and replace with: "This higher figure takes into account the potential for a substantial portion of the planning permission granted by the Secretary of State on the former Powergen sites (TC12 and TC13) and some development on the Gasworks Lane site (TC14) to come forward during the Plan period. It is possible that not all of the allocations will be fully developed by the end of the Plan period and the higher figure helps to provide confidence and a degree of flexibility in meeting the required overall residential figure for the Town Centre, as set out in Policy CS3."

Amend the final sentence to read: "The position will require ongoing monitoring, and the approach...."

Amend the table showing the indicative quanta of development by replacing "1,400" in the row for Southern Expansion under Residential with "1,750" and replacing "2,750" in the Total row with "3,100";

by replacing "50" in the row for TC12 with "380" under Residential;
by replacing "600" in the row for TC13 with "620" in the column under Residential;

and by replacing "2,750" with "3,100" in the Total row.

MATTER 4 – TRANSPORTATION MATTERS

Reasoning

3.31 Issues raised centred on the key infrastructure element, Victoria Way, and implementation of the Parking Strategy elements within the Town Centre. An update on the Victoria Way project, provided to the Examination, indicates that planning permission has been granted for a major part of the scheme, between the western end of Victoria Road and Leacon Road. The update also advises that a grant of £16.5 million for the project has been approved by central

Government as part of the Community Infrastructure Fund – sufficient to enable construction of the works for which permission has been granted.

- 3.32 So far as the section of Victoria Way for which planning permission has been granted there is no need for this to be safeguarded in the AAP by delineation on the Proposals Map or inset maps. Indeed, the delineation within the AAP does not precisely follow the site location plan B0501400/H/049 (ED56, Appendix 1a) and so could be misleading. The remaining section, between the proposed Victoria Square and the First Section from Beaver Road (ED56, Appendix 3) is shown delineated by a proposed change to the Proposals Map and the inclusion of inset maps, clearly impacting on properties fronting onto Victoria Road. The timescale for this part of the scheme is imprecise and the means for its achievement relies firstly on redevelopment proposals coming forward, and ultimately on its pursuit by the Highway Authority through compulsory purchase. However, it would appear that there are no firm plans for this course of action at the present time.
- 3.33 The Council has accepted that there are arguments for not delineating the Victoria Way corridor but considers a form of wording should be inserted in its place. This would replace the second paragraph in Policy TC10 and is considered further under Matter 5. A related issue concerns the wording of para 4.23 relating to funding matters. The final sentence does not make it clear that the requirement for development funding is an alternative to providing enhancements as part of any redevelopment scheme. The Plan is not sound without some clarification.
- 3.34 There are two specific issues relating to the delivery of the Parking Strategy elements within the Town Centre. The first relates to the proposed multi-storey car park within the allocation at Policy TC12. The Council's Parking Strategy considers this to be a principal location for a new public multi-storey car park for 800 spaces. The Strategy Technical Note 2009 (ED18) identifies a requirement for 3 new 'park & walk' multi-storey car parks including the Victoria Way site which figure 3 shows as providing 600 short stay and 200 long stay spaces by 2021, although the table at para 5.4 indicates the provision in place by 2013. Para 8.3 indicates that the provision will allow the closure and redevelopment of the Vicarage Lane and Elwick Road car parks.
- 3.35 The appeal decision on the ZEDHomes/Bondball scheme grants planning permission for a 500 space car park on the Victoria Way site. The Council disagrees with the decision, insisting that 800 spaces will be required. From the evidence this is an unrealistic expectation and, as with the housing element, it is unsound since the DPD has not taken account of matters imposed by circumstance. It appears from the evidence that compensatory provision for any shortfall in spaces could be achieved by expanding parking provision at the first Park & Ride site, at The Warren whilst,

as an interim measure, redevelopment of the Vicarage Lane car park could be delayed. Either way, it seems unlikely that the impact of a shortfall of 300 spaces at Victoria Way would be catastrophic on the Parking Strategy.

- 3.36 Similar conclusions were reached by the Inspector in the appeal by ZEDHomes/Bondball (para 11.31) following a thorough analysis of the arguments for the larger car park and finding no compelling case for such a high number of spaces. He also suggested that a reduced parking standard in the town centre would comply with the long term overall national strategy to reduce dependence on the car (para 11.32). His conclusions were supported by the Secretary of State and there is no evidence before this Examination to suggest those conclusions are no longer applicable.
- 3.37 The second issue regarding the Parking Strategy relates to the provision of a multi-storey car park at Mace Lane at the end of the Plan period or later. This would provide a further 400 spaces but the Strategy indicates that it would only be needed by this time if the sites allocated in this area in the AAP are fully developed (para 3.1). Evidence to the Examination suggested that it may not be required within the Plan period at all, and even in the longer term there may not be a need for the car park.
- 3.38 The AAP gives no indication of the site for the car park beyond a general location in "*the Mace Lane area*", but requires that any development proposals shall not prejudice its future delivery. This fails the test of effectiveness since it is neither clear nor precise, giving landowners and prospective developers no guidance concerning the possible impact of the requirement on any proposals. There is no clarity about location, timing or even a specific requirement for the car park and the references in the AAP do no more than attach a degree of blight to any proposals that might come forward within the Plan period.

Conclusions in terms of soundness

- 3.39 A number of changes are necessary in order to make the Plan sound. These include not implementing the proposed changes to the Proposals Map showing the delineation of the Victoria Way corridor and amending the inset maps accordingly, replacing the final sentence of paragraph 4.23, changing all references to the Victoria Way car park from 800 to 500 spaces and deleting references to the Mace Lane multi-storey car park.

The changes needed to make the DPD sound

Proposals Map

The proposed change to the Proposals Map showing a red edging and colouring delineating the Victoria Way safeguarded area should not be made.

The inset maps for sites TC11, TC12, TC13 and TC14 should be amended by deleting the red edging and colouring denoting the Victoria Way safeguarding area.

Paragraph 4.23

Delete the final sentence and replace with: "Where the redevelopment of sites adjoining the Victoria Way corridor deliver public realm enhancements as part of their redevelopment proposals, financial contributions will not be sought to the public realm improvement fund."

Policy TC10 – The Southern Expansion Quarter

Amend the first sentence by deleting "an 800 space multi-storey car park" and substituting "a 500 space multi-storey car park".

Paragraph 2.117

In the final sentence delete "Provision of 800 public spaces here..." and insert "Provision of 500 public spaces here.."

Policy TC12 – Former Powergen site North

Amend the first sentence by deleting "...provision of a public 800 space multi-storey car park.." and inserting "..provision of a public 500 space multi-storey car park..".

Paragraph 2.152

Amend the first sentence by deleting "...for 800 spaces".

Policy TC18 – The Residential Quarter

Delete the final sentence.

Paragraph 2.212

Delete the final sentence.

Policy TC21 – Multi-storey public car parks

Amend the first sentence by deleting "(providing 800 spaces)" and substituting "(providing 500 spaces)".

Delete the final sentence.

Paragraph 3.16

Delete the final sentence and replace with: "This will provide 500 additional spaces (see Policy TC12)".

Paragraph 3.21

The paragraph to be deleted and replaced with "It is not envisaged that the car park would be required until the end of the plan period at the earliest and then only if a further multi-storey car park proves to be required at that time".

MATTER 5 – SOUTHERN EXPANSION QUARTER

Reasoning

- 3.40 As indicated under Matter 4 above, the inclusion on the Proposals Map of a safeguarding corridor for Victoria Way is misleading and appears to be defined inaccurately. The Council has agreed to its removal, but has proposed amended text for Policy TC10 and its reasoned justification. The main concern arising from the representations is the Council's insistence on a minimum width between building frontages of 24m for the entire length of the road east of Gasworks Lane. This is based on a requirement for an urban street having a high quality, distinctive character and a strong sense of place – a 'great street' as it has become known in shorthand. However, the requirement for the substantial width has been questioned as a subterfuge for the ultimate creation of a dual carriageway at some time in the future. The basis for this belief lies in the origin of a southern route providing a link from the Romney Marsh Road to the A28 at the "tank" roundabout, involving a substantial new skewed railway crossing. This would effectively provide relief to the inner ring road.
- 3.41 Whatever the past history of the proposal, as of now, I understand the link to the A28 is no longer being pursued and Victoria Way will ultimately link to Leacon Road at a reduced width. As a consequence it appears to me that the only basis for the 24m width is an urban design one, based on the vision of a 'great street' in design and scale terms. There was a great deal of debate about the purpose and composition of the highway at the Hearing but, it seems to me that to fulfil the vision, the most likely cross section would be that provided by Andrew Phillips of Ashford's Future Company Ltd by e-mail dated 2 November showing a total width of highway that would be adopted by the highway authority as 24m. In my view this, together with an appropriate building height and form would lead to achievement of the sort of character resulting in the vision of a high quality urban street.
- 3.42 The eastern end, between George Street and Beaver Road has been constructed within a 24m corridor (ED56, Victoria Way Project Update, Appendix 3) and the section west of the primary school is shown as having a minimum corridor of at least 24m (Appendix 1a). As a matter of principle, therefore, I consider it would be wrong to suggest a width significantly different for the short stretch of perhaps 200m between George Street and the Primary School.

This supports my conclusion that the Plan is sound in respect of requiring the appropriate action to achieve the stated vision.

- 3.43 I have some sympathy with the concerns expressed on behalf of landowners within this short stretch, but the evidence does not support the suggested highway width of 14.5m within the corridor.
- 3.44 At a number of places the AAP makes reference to the extant planning permission obtained on appeal for the former Powergen site (ref:APP/E2205/A/07/2049924). These include paras 2.129 and 2.149 - 2.156. The Council's view on the appropriateness of the proposed development is clearly at odds with both the Inspector's conclusions in his report and the Secretary of State's ultimate determination of the appeal. It is without doubt entitled to that view.
- 3.45 However, amongst the requirements for soundness included in the current PPS12 is that the DPD should ensure that partners who are essential to delivery of the plan such as landowners and developers are signed up to it (PPS12, para 4.45). The Planning Inspectorate's Soundness Guidance 2nd Edition, issued in August 2009, suggests a key question is whether the DPD takes account of matters which may be imposed by circumstance, notwithstanding the LPA's views about the matter.
- 3.46 From the evidence provided the developers have every intention of pursuing their permission. I did not find arguments that the scheme could be unviable in the present market circumstances convincing. Moreover, it is common ground that the development of the former Powergen site is a fundamental requirement to the successful expansion of the town centre across the railway. The developers are key players with the development providing essential parts of the wider vision, including the improved Learning Link bridge; the Victoria Way 'great street'; the first new multi-storey car park – a key component of the Parking Strategy; and a retail/commercial component to act as an important 'attractor' to support the bridging of the railway.
- 3.47 As a consequence of the above it is my view that, whilst an alternative policy solution may have attractions to the Council and may be capable of justification in some respects, it is unlikely to happen whilst the present developers are actively pursuing an alternative and legitimate solution. Whilst it must be open to the LPA to consider all reasonable alternatives in the light of the wider vision and development aspirations for the town centre, it cannot ignore the extant permission. In this respect I consider the Plan is unsound without appropriate amendments.
- 3.48 The amount of retail floorspace included in the approved scheme for the Powergen site has also been raised at the Examination with a case being made for a larger format food store component. This is based on the findings of the Savill report (ED39a, para 5.12) that

the Powergen site is "...likely to be more attractive [than the Wilkinson's Unit or the western part of the Elwick Road Site] to retailers in providing a predominately car base facility if the Victoria Way link can be provided". On this basis, it is argued, there is a case for a larger format food store than the 3,716sqm of gross floorspace allowed by the appeal decision.

- 3.49 The Inspector in that appeal concluded that, in the context of the planned growth in Ashford, the retail policy objectives of PPS6 would not be breached by that proposal. He had, however, indicated that redevelopment of the Park Mall site may be potentially preferable but there was no firm evidence at that time that the site met availability tests in PPS6. At this Examination evidence was provided that the future adaptation of Park Mall to allow for food retailing could be achieved, without the loss of Wilkinsons. Park Mall was described as performing badly and in a state of decline with a high vacancy rate. In these circumstances I consider the Plan is sound in giving priority to redevelopment of Park Mall through Policy TC4 on the basis that reversing its present state of decline would counter-balance the new floorspace created at County Square and Elwick Place and be consistent with the sequential approach set out previously in PPS6 and carried forward into the new PPS4. I also consider that, on the basis of evidence before the Examination, increasing the food store floorspace at the Powergen site would be likely to have an adverse impact on the achievement of that reversal. The identification of a primary shopping area by the representors (Retail Considerations May 2009, Appendix 5) is not supported by convincing evidence to suggest the Powergen site is properly identified as an edge-of-centre location.
- 3.50 There is agreement that development of the Gasworks Lane site (Policy TC14) will have to be phased as a result of decommissioning of the gasholder, with the first phase taking in the eastern part of the site adjacent to Gasworks Lane. The key concern to National Grid is that Policy TC14 should be more flexible to allow taller buildings on the site without prejudicing the proposed street scene in Victoria Way. In support, reference is made to the Urban Initiatives Framework study (ED19, section 4.18) which suggests the general maximum of 6 floors but that "...important sites at gateway locations should undergo more detailed design studies to establish whether additional height may be beneficial to the wider landscape". However, I support the Council's view that the transitional location of the site and the adjacent railway frontage does not suggest this is an appropriate location for landmark buildings associated with 'gateway' locations.
- 3.51 In landscape terms the site is prominent in the wider urban scene, particularly from the direction of the town centre as a result of the slight rise in ground level towards the western end. This is clearly evidenced by the prominence of the existing gasholder, which I estimate to be the equivalent of about 7-8 domestic storeys high, which can be seen over a wide area. For these reason I consider

the AAP is sound in respect of setting a maximum building height for development.

- 3.52 The suggested total number of up to 500 residential units will, of course, be dependent on the density that can be achieved within the overall height restriction, and by the extent to which an employment element is incorporated in the development proposals. Although there is nothing before the Examination to counter the view that 500 units would be necessary to make development of the site viable, I have not changed the figure of 300 in the indicative quanta table. This is because of the site issues, including decommissioning of the gasholder, which suggest to me that at least part of phase 2 will be likely to be developed beyond the Plan period.
- 3.53 A suggestion that a second access point may be necessary, in addition to that approved to Gasworks Lane, is accepted by the Council and for clarity reasons I consider this should be included in the reasoned justification to Policy TC14. However a further suggestion for additional text, making reference to a future viability appraisal if significant remediation costs are identified, is not necessary in order to make the Plan sound. In the event that such costs are identified an appraisal would become necessary in any event so it is not necessary to clarify the point within the Plan.
- 3.54 The prescribed heights for development in general were brought into question and, in respect of Policy TC1, Guiding Principles and reasoned justification at paras 1.44 - 46, I have proposed changes under Matter 1. It also appears to me that policies TC11 and TC13, together with supporting text are also too prescriptive on the issue and offer no flexibility for design solutions which may be appropriate and acceptable, but fall outside the prescribed height limits.
- 3.55 The exception to this conclusion concerns Policy TC14, Gasworks Lane, where I consider the Council is right to prescribe a limit of 'up to 5 storeys' for the reasons set out above. For those reasons I consider the Plan to be sound in respect of Policy TC14.

Conclusions in terms of soundness

- 3.56 Although I have not supported a variation on the declared 24m width for the eastern part of Victoria Way it is necessary to amend the second paragraph of Policy TC10 to make the issue of width clear and to provide the basis for determining the appropriate building heights on adjoining frontages. This requires amended justification in paragraphs 2.112, 2.113 and 2.116.
- 3.57 The AAP should have due regard to the extant planning permission granted on appeal irrespective of the Council's views on that decision. The reasoned justification at paragraphs 2.129, 2.149, 2.151, and 2.154 – 156 requires amendment, as does Policy TC12.

- 3.58 The Plan requires amendment to policies TC11 and TC13, together with reasoned justification at paragraphs 2.138 and 2.146 in order to provide flexibility in terms of building height. A further amendment, to paragraph 2.166, is necessary to provide clarity in respect of access requirements to the Gasworks Lane site.

The changes needed to make the DPD sound

Policy TC10 – The Southern Expansion Quarter

Delete the second paragraph and replace with: “Redevelopment proposals in this Quarter must enable the delivery of the vision for Victoria Way as an urban boulevard. All proposals must demonstrate that they will produce a well proportioned street based on the relationship between building heights and street width. East of Gasworks Lane, redevelopment proposals shall ensure the delivery of a street 24 metres wide between building frontages. To the west of Gasworks Lane, redevelopment proposals shall ensure that the width of the street shall be based on the scale of building heights proposed along either side of the street.”

Paragraph 2.112

Delete the final sentence.

Paragraph 2.113

Delete paragraph 2.113 and replace with: “Victoria Way will be delivered in phases. Kent County Council has recently obtained planning permission for phase 1, running from Beaver Road to Leacon Road. However, the wider objective for Victoria Way is to provide a high-quality urban boulevard and not just a traffic distributor, consistent with the aims set out initially in the Town Centre Development Framework and now in the Public Realm Strategy. The route corridor must therefore have sufficient width to create a ‘street’ with good facilities for pedestrians and cyclists as well as traffic, an attractive streetscape and a high quality of public realm appropriate to a significant new town centre street serving a series of major development areas. It is anticipated that the full street width between building frontages will be adopted as the public highway. However, if ground floor building frontages were to be set back further (with balconies above, for example), then the additional part of the ‘street’ need not be adopted and could form an area of ‘private’ space that may contribute to commercial activity along the street, e.g. a café ‘sitting out’ area”.

Paragraph 2.116

Delete the final two sentences.

Paragraph 2.129

Delete the second and third sentences and replace with: "The Council accepts that this scheme may be implemented although its preference for this location would be for a smaller scheme without taller buildings".

Delete sentences four and five.

Paragraph 2.138

Amend the final sentence to read: "..development here should be generally between 4-6 storeys fronting the highway, with..".

Paragraph 2.146

Amend the first sentence to read: "Developments here should also be generally between 4-6 storeys in height fronting the highway."

Policy TC11 – Victoria Way East

Amend the third sentence to read: "..Victoria Way shall be between 4-6 storeys fronting the highway".

Paragraph 2.149

Delete the second sentence and replace with: "The site forms part of a larger site granted outline planning permission on appeal in 2008 for 1,002 residential units, 8,229sqm of commercial floorspace, including a convenience goods supermarket up to 3,716sqm. Conditions attached to the permission limit the sales area of the foodstore to 2,230sqm, with up to 2,634sqm of other A-class uses and other commercial uses (B1) and leisure/education (D1/D2) floorspace and a 500 space multi-storey car park."

Paragraph 2.151

Delete paragraph 2.151.

Paragraph 2.154

Delete the first and second sentences and replace with: "In respect of retail use there is scope for a food store of 3,716 sm gross to be provided within the total retail floorspace of 6,350sm gross allowed by the permission granted in 2008."

Paragraphs 2.155 and 2.156

Delete paragraphs 2.155 and 2.156.

Policy TC12 – Former Powergen site North

In the second sentence delete "(up to 2,000sqm net)".

Policy TC13 – Victoria Way South

Amend criterion B) "range in height from around 4-6 storeys..."

Paragraph 2.166

Add new sentence: "Employment development and site layout issues may warrant an additional access to the approved access to Gasworks Lane."

MATTER 6 – TOWN CENTRE CORE

Reasoning

- 3.59 Representations by the preferred development partner for Elwick Place, Policy TC3, indicated its generally supportive attitude towards the Policy together with changes already included in the schedule of proposed amendments. The remaining point of concern was the requirement for contributions towards the proposed replacement bridge over the railway lines. The Council has not objected to additional text to clarify the requirement as being 'proportionate' since it is not the intention to render the proposed development unviable.
- 3.60 The AAP identifies Godinton Way Industrial Estate as a suitable location for residential development through Policy TC8. The site is located towards the western end of the town centre, south of Elwick Road. The major part of the site is currently substantially vacant. The frontage to Elwick Road is in separate ownerships and mostly in commercial use. The representor's proposal is that the site should be allocated for mixed-use, with specific proposals for retail (medium sized food store), residential and a mid-range hotel.
- 3.61 The TC8 allocation is bounded to the south by the railway lines and to the east by the TC3 Elwick Place allocation. Established residential uses are adjacent to the north and west. Clearly a residential allocation would be appropriate here and to this extent the Plan is sound. The allocation is close to the existing town centre and could be identified as 'edge-of-centre' and the Council does accept its suitability in sequential terms over other, more peripheral locations. However, the Retail Assessment of Potential Locations for a Foodstore (ED39b, Savill's 2009 report) did not include it on its long list of potential sites.
- 3.62 The Council's main concerns are traffic generation on Elwick Road and the impact a major foodstore with dedicated car park would have on the Parking Strategy. I share those concerns. Although the Technical Note produced for the representor in support shows slightly more than a 10% increase on the design daily traffic flows as a result of the mixed-use scheme proposed, its conclusion was that it would not alter the design concept of shared spaces. I observed that the west end of the shared space can already become

congested at the roundabout and common sense suggests that this is likely to lead to conflict with pedestrians. The Parking Strategy has been based on the need to restrain car parking demand from existing and new development in the expanded town centre and encouraging modal shift from the car. It seems to me therefore that the representor's proposed mix of uses would both undermine the Strategy and increase the potential for conflict within the shared space.

- 3.63 Representations on behalf of the owners, are seeking a site specific policy for Charter House, a 9 storey office building within the Town Centre Core and adjacent to the ring road. It has been largely vacant for some 5 years. The site is not within the Conservation Area and is in a sustainable location. The owners see potential for a retail-led development, including a food store, following demolition of the present building and the Council have said that, in principle, it is an appropriate location. It is sequentially preferable to other, more peripheral sites. Drawings have been submitted showing that a mixed-use scheme could be devised with retail floorspace on the ground floor, together with car parking and residential units.
- 3.64 The scheme has a number of points in its favour: it would remove a 1970s building which does not contribute to the character and visual appearance of the town centre in a positive way; it is well located in relation to the shopping core of the centre and has good access from the ring road. However, I am inclined to agree with the Council that it is unrealistic to regard Charter House as anything other than an alternative foodstore location to Park Mall and it is unlikely that both sites would come forward within the Plan period. Charter House is currently being actively marketed as office accommodation and the Council has recently resolved to grant planning permission, subject to a Section 106 agreement being secured, for a refurbishment scheme converting the building to residential apartments. The Council has chosen to give a higher priority to the Park Mall location, which appears to have a high vacancy level and is in need of regeneration and has, therefore made this an allocated site in the AAP. This is not, in itself, unsound.

Conclusions in terms of soundness

- 3.65 It is necessary, and agreed between the parties, that additional text should be included both in the Policy and supporting text to clarify the requirement for contributions to the railway crossing. No other changes are necessary in order to make the AAP sound so far as the Town Centre Core quarter is concerned.

The changes needed to make the DPD sound

Policy TC3 – Elwick Place

Amend the final sentence by replacing “required” with “sought” and inserting “..the Southern Expansion Area and..” after “..to link the site with..”

Paragraph 2.42

Insert additional sentence to the end of the paragraph “This contribution is not expected to fully fund the costs of the replacement bridge. The sum sought will be proportionate and negotiated with the Council in the context of the overall viability of a redevelopment scheme for the site”.

MATTER 7 – INTERNATIONAL STATION QUARTER

Reasoning

- 3.66 The International Station Quarter is seen as having an important role to play in the expanded town centre and the AAP seeks to generate a stronger and more attractive image for Ashford and enhance the status of the International Station. The former B&Q site is a key site offering redevelopment potential that may stimulate further investment in the Quarter in the medium term. The owners of the site concur with the general aim, seeing it as an important development opportunity. The main issue is the difference in opinion concerning the emphasis on office-led development in Policy TC16.
- 3.67 It is argued that such a scheme would not be viable in the short or medium term, and there is even some doubt that it would be viable in the longer term. As a consequence an office-led scheme will not deliver as a ‘gateway’ site and the site owners consider a residential-led scheme would be preferable. In support my attention was drawn to the amount of empty office space currently available, including almost the whole of Charter House. It is also argued that the new high speed rail link to London will not, as the Council believes, draw office jobs out of London, but encourage commuters to the City.
- 3.68 The Council considers this view to be unduly pessimistic and argues that limiting the concentration of office space on this site would compromise delivery. It considers the oversupply of floorspace in the town centre to be a transient problem with much of the present accommodation unsuited to modern market needs. The Employment Land Review (ED12, para 10.6), however, is less confident. It suggests that, whilst Ashford is seen as a good industrial location, current levels of demand for office space are modest and existing developments may meet much of the demand in the short term. It also suggests it is a marginal location for speculative office schemes, although it is more hopeful that the

high speed rail link may give rise to potential "*..if high quality, speculative premises are provided and sites readily available*" (para 10.9). The AAP identifies the site as a relatively 'stand alone' location and suggests it could possibly accommodate a landmark building of greater height.

- 3.69 Taking all of these points together and bearing in mind the importance of this 'gateway' location I consider the Council is right to seek office development on the B&Q site, but that more flexibility in the mix of uses may be necessary in order to encourage development to come forward within a reasonable timescale.

Conclusions in terms of soundness

- 3.70 The text of Policy TC16 is too inflexible and may prevent the emergence of a viable scheme capable of implementation on this challenging site. Although I do not agree with the text offered on behalf of the site owner, I consider a revised first sentence to the Policy is necessary in order to ensure soundness. I am not convinced that it is necessary to amend criterion C as suggested. However the reasoned justification for the Policy at para 2.196 does require revised text to support the amended Policy.

The changes needed to make the DPD sound

Policy TC16– Former B&Q site, Beaver Road

Delete the first sentence and replace with: "The former B&Q site is allocated for a mixed-use development, utilising the gateway location to raise the importance and prominence of the site. A high quality office development is envisaged for this location, in combination with residential uses on upper floors and retail and/or leisure uses at street level. A good quality business class hotel would also be appropriate. Proposals will:"

Paragraph 2.196

Insert after the first sentence: "However, the proportions within the overall mix of uses are not pre-determined and residential uses on upper floors are considered to be appropriate."

Delete from the final sentence: ", and residential uses on upper floors could also form part of the overall mix".

MATTER 8 – OPEN SPACE & LEISURE MATTERS

Reasoning

- 3.71 A number of concerns have been raised relating to open space and leisure. Some have been addressed through the schedule of changes published with the AAP, others have raised general points and matter addressed through the Core Strategy. A request for

encouragement for a theatre is not supported by evidence that funding is available, or that any group or body has specific plans for one to be provided. In respect of open space and leisure in general I am satisfied that the Plan is sound with the exception of two issues.

- 3.72 The first of these concerns the Riverside Business Park which is shown entirely within the Green Corridor designation adjacent to Mace Lane. The site is developed land and currently makes no contribution, either in visual or use terms, to the Green Corridor. The Council's argument for retaining it within the designation is so that a benefit to the Green Corridor may be secured from any proposal for redevelopment. It would prefer any review of the Green Corridor boundary to be part of a future SPD or its generic development control DPD. These are not convincing arguments. The site is clearly not an integral part of the Green Corridor in the physical sense and Policy TC29 makes provision for securing benefits to the Green Corridor in the event of redevelopment proposals coming forward on land adjoining the Green Corridor.
- 3.73 I do not support the request to remove the Ashford School Tannery Lane site from the Green Corridor designation. An allocation for a mixed-use scheme is sought and, in support, reference is made to the Preferred Options Report (ED16, fig 7). However this appears to be a notional diagram showing potential for new development and does not appear to reflect concerns about the limited open space in the town centre. I consider the Sustainability Appraisal (ED35, Appendix D) rightly concluded that the site is not suitable for development. The site was in use as playing fields on occasions when I was passing and it seems to me that it has an important role as part of the visual character of the Green Corridor irrespective of the absence of public access.
- 3.74 The second issue raised on behalf of the School concerns amendment to the wording of the Green Corridor Policy TC29 in the event that there is no recommendation to change the boundary. The amendment would recognise that there are existing uses within the Green Corridor which would have legitimate development aspirations in connection with those uses, and Ashford School is one of these. Although the Council considers the Policy, as drafted, would allow for such proposals, it seems to me that explicit wording would provide clarity.

Conclusions in terms of soundness

- 3.75 It is necessary to amend the Green Corridor boundary to exclude the Riverside Business Park for consistency and clarity reasons. The wording of Policy TC29, third paragraph, should also be amended to provide clarity in respect of the intentions so far as existing uses within the Green Corridors are concerned.

The changes needed to make the DPD sound

Policy TC29 – Green Corridors in the Town Centre

Insert "including those relating to an existing use within the Corridor." after "Other forms of development proposals".

Proposals Map

The proposed change to the Proposals Map showing the boundary of the Green Corridor designation should be amended to exclude the curtilage of the Riverside Business Park identified on the Barton Willmore plan no. 17677/01/a dated 11.05.09.

MATTER 9 – OTHER PLAN MATTERS

Reasoning

- 3.76 Policy TC5 relating to development of the Vicarage Lane Car Park came under scrutiny so far as the impact on users of the existing surface car park is concerned. It has been suggested that convenient open air parking is still needed to serve the town centre, in particular in connection with evening functions at the various nearby venues, when the commercially operated multi-storey car parks have closed. It is also argued that for those with limited mobility, the multi-storey car parks are inconvenient and for these people the one proposed south of the railway would be relatively remote. There is some force to these arguments.
- 3.77 The Council's response is that the Parking Strategy seeks to provide Park & Shop car parks within the town centre core, close to the main shopping hubs at County Square and Park Mall. Other Park & Walk sites would be in the form of multi-storey car parks outside the town centre ring road. It would be contrary to the Parking Strategy to retain any significant parking capacity within the ring road and it is not unusual to have to walk some distance 'out-of-hours'. However, the Council conceded that development of the Vicarage Lane site would not be imminent and would be reliant on the provision of parking elsewhere in line with the Strategy.
- 3.78 To provide clarity, and to provide some assurance to those with mobility needs I consider the Policy should include a new Criterion D) linking any proposed redevelopment of the site to the provision of alternative parking elsewhere, together with further explanation in the supporting text. The Council has offered additional text but this does not go far enough in providing the assurances sought.
- 3.79 The Council's schedule of proposed amendments included additional wording for the preamble to certain policies in response to concern over the need to secure funding for new and improved local

sewerage infrastructure to meet demand arising from new development. It had not proposed any additional wording in the policies themselves. Initially I was not convinced this is an adequate response since 'requisitioning', the formal mechanism through which developers provide infrastructure required to serve their sites, needs to be secured through the use of appropriate conditions or Section 106 agreements.

- 3.80 However, my attention has been drawn to the recent judgement by the Supreme Court in the case of *Barratt Homes Ltd v Dwr Cymru Cyfyngedig* [2009] UKSC 13, which overrules Ofwat's view that enhancements to the local sewerage system resulting from new development should be paid for by the developer. This means that requisitioning by the developer is no longer the appropriate mechanism by which demand from new development can be met. At present I am not aware of any response by Ofwat to the judgement so it is not possible to recommend an appropriate wording to incorporate in the policies. Rather, I consider the Council's proposed amendments to the policy preambles should be adapted to the new circumstances.
- 3.81 A request was made for monitoring indicators to measure matters which contribute to the quality of the town, such as open and safe pedestrian and cycle routes, green space, public realm space and public transport connectivity. The Council was sympathetic but the difficulty of measuring qualitative improvements raised problems for effective monitoring. It has, however, pointed to some aspects of these matters which are measured in the Annual Monitoring Review. In my opinion the soundness of the Plan is not at issue so far as the specific indicators used for monitoring and review in Chapter 7 are concerned so no amendments are necessary.
- 3.82 During the Examination further information was provided regarding the County Council's financial position and providing a basis for seeking to secure development contributions. As a consequence The County and Borough Councils proposed the insertion of explanatory text following paragraph 4.11 essentially advising that the Council would seek to restrict the implementation of new development through the use of 'Grampian style' conditions, either until funding is in place or the parties have agreed it will be put in place at the appropriate time. Although I acknowledge the Council's experience in using Grampian style conditions in these circumstances, their use has not yet been tested in the courts and there is the risk they could be found to be unlawful by breaching the principle that there can be no taxation without legislation. Accordingly I do not support the inclusion of the additional text.

Conclusions in terms of soundness

- 3.83 The Plan requires amendment in order to make it sound. Firstly, Policy TC5 should include an additional criterion as set out below, together with new supporting text inserted after paragraph 2.56.

Secondly, the preambles to policies setting out the requirements to be met by new development proposals, both in general or in relation to allocated sites, should include the appropriate wording to ensure limitations in the local sewerage infrastructure are recognised.

The changes needed to make the DPD sound

Policy TC5 – Vicarage Lane Car Park

Insert additional criterion:

“D) need to demonstrate that there is sufficient spare capacity available in the public parking stock serving the town centre, or, that new public parking of the equivalent number of public spaces has already been provided to serve the town centre, such provision to include readily accessible parking out of working hours and for those with mobility problems”.

Paragraph 2.55

Add new sentence: “It is recognised that the car park is conveniently located, particularly for those with mobility problems and to serve town centre functions out of working hours.”

Insert new text after paragraph 2.56:

“In accordance with the Parking Strategy, it is intended that new public car parking serving the town centre will be brought forward elsewhere and will act as a replacement for the existing public car parking on this site, in order for this site to be redeveloped.”

“However, if no new car parking has been brought forward to serve the town centre, including providing for the specific needs of those with mobility problems and to serve town centre functions out of working hours, proposals for the redevelopment of the public car parking element of this site should demonstrate that there is sufficient spare capacity in the rest of the public parking stock centrally located to serve the town centre to enable the loss of the existing spaces at Vicarage Lane.”

Preamble to Policies TC3, TC4, TC5, TC6, TC8, TC9, TC11, TC12, TC13, TC14, TC16, TC19 and TC20

Delete each of the Council's proposed amendments and replace with: “It will be necessary to upgrade the existing local sewerage infrastructure before the development can connect into it.”

4 Minor Changes

- 4.1 The Council and others have suggested several minor changes to the submitted DPD in order to clarify, correct and update various

parts of the text. Although these changes do not address key aspects of soundness, I endorse them on a general basis in the interests of clarity and accuracy. These changes are shown in Annexe 1.

5 Overall Conclusions

- 5.1 I conclude that, with the amendments I recommend, the Ashford Town Centre Area Action Plan satisfies the requirements of s20(5) of the 2004 Act and meets the requirements for soundness in PPS12.

Patrick T Whitehead

INSPECTOR

Annexe 1

PROPOSED MINOR CHANGES

Paragraph 2.3

Replace "(2001-31)" with "(2001-21)" in the second sentence.

Paragraph 2.16

Insert after the final sentence: "As is the case in most historic towns, there are numerous archaeological remains in the historic core of Ashford and therefore it will be necessary for an archaeological survey or watching brief to be carried out prior to or in conjunction with some developments"

Policy TC2

In the final paragraph insert "materials" after "..appropriate scale, height, layout,"

Paragraph 2.77

In the second sentence insert "adult social services, registrar office" after "..including adult education,..."

Paragraph 3.83

Amend the first sentence "..should be protected, maintained and where possible enhanced."

Paragraph 3.52

Amend the first sentence "In accordance with Policy TC25 below.."

Policy TC29

Amend the final sentence "..shall make a positive contribution to the biodiversity value, setting.."

Appendix 3

Under the heading 'Learning for Everyone', insert:
LH Column:

"We will work together to promote community and educational uses. A 'Gateway Plus' facility is proposed at the Ashford Library site which will be a very important community offer for the town and will help to complement the proposed Learning Campus."

RH Column:

"Policy TC7 sets the design principles for the site."

Under the heading 'Economic Success – Opportunities for All' add "TC7" to the list of policies in the RH column of the first entry.

Under the heading 'Improving Health and Wellbeing' amend the entry in the RH column by deleting "and social care" from the first sentence and add after the final sentence: "Additional social care facilities will be delivered from the proposed Gateway Plus."

Under the heading 'Promoting Environmental Excellence' add "TC7" to the list of policies in the RH column of the first entry.

Under the heading 'Enjoying Life' add "TC7 proposes community and educational uses as an important part of the community offer in the town." to the list of policies in the RH column of the first entry.