

Matter 5 / Pro Vision Planning & Design
on behalf of Knightspur Properties Ltd

ASHFORD BOROUGH COUNCIL

TENTERDEN AND RURAL AREAS DPD

REGULATION 30 DOCUMENT FOR SUBMISSION

HEARING STATEMENT

IN RESPECT OF MATTER 5

**PREPARED BY PRO VISION PLANNING AND DESIGN ON
BEHALF KNIGHTSPUR PROPERTIES LTD**

Date: May 2010

CONTENTS

	<u>PAGE NO</u>
Question 5.1 –Reliance of the DPD’s Housing on one Principal Site (TENT1)	1 - 3
Question 5.2 – Involvement of Key Stakeholders	3
Question 5.3 – Need for Contingency Strategy	3 - 5
Question 5.4 – Balance of Housing Provision with Jobs and Community and Social Infrastructure	5
Question 5.5 – Promotion of Public Transport	5
Question 5.8 – Best Strategy	5 – 9

APPENDICES

Appendix A	Notes on LPA’s that have been successful in delivering required housing numbers or experienced delays
Appendix B	Land Registry Details for Part of TENT1
Appendix C	Master Plan and Key Features Summary
Appendix D	Letter from Stuart Michael Associates
Appendix E	Facilities and Services Plan (ref: 963-FS1)

COPYRIGHT: The contents of this document must not be copied or reproduced in whole or in part without the prior written consent of PRO Vision Planning & Design.

**ASHFORD BOROUGH COUNCIL
TENTERDEN & RURAL AREAS DPD EiP**

MATTER 5: TENTERDEN

NOTES OF BEHALF OF KNIGHTSPUR PROPERTIES LTD

1. These notes address questions 5.1, 5.2, 5.3, 5.4, 5.5 and 5.8 and expand on our August 2009 and January 2010 representations in relation to Tenterden and regarding Land at Tilden Gill Road (TENT13) (“The Omission Site”) for housing development.

Question 5.1 – Is the degree of reliance of the DPD’s housing strategy on one principal site (TENT1) sufficiently flexible?

2. PPS1 sets out Central Government’s intention for a plan-led system. Paragraph 8 identifies that certainty and predictability are central to planning and the ‘plan-led’ system. Paragraph 7 sets out the importance of the planning system being transparent, flexible, predictable, efficient and effective.
3. Paragraph 52 of PPS3 clearly states that *“the Government’s objective is to ensure that the planning system delivers a flexible, responsive supply of land”* (Pro Vision emphasis).
4. Reliance on a single complex site to deliver housing in Tenterden will not provide certainty or flexibility. If the whole or part of TENT1 fails to come forward for any reason the strategy will not provide the flexibility to deliver housing on other sites.
5. One large site could be delayed by a legal, contractual or technical issues (concerns regarding the deliverability of TENT1 are set out in previous submissions). This has been a problem in the past in other Districts (see Appendix A in particular Andover, Dorchester and Taunton). Should TENT1 be delayed it would seriously compromise housing delivery outside of the Ashford Growth Area. There is no ‘fall back’ position / contingency strategy. Evidence suggests that development by a number of developers on a number of sites is likely to deliver faster overall housing sales (i.e. faster delivery) than just one developer (see Appendix A in particular Basingstoke and the Isle of Wight).
6. The identification of more than one site for housing development in Tenterden would provide greater flexibility and certainty within the Plan. Such an approach was

endorsed by the Inspector appointed to examine the Test Valley Council Core Strategy (before it was withdrawn), in which he stated in his notes of the pre-examination exploratory meeting *“with heavy dependence on a limited number of large sites, the need for contingency planning increases”*.

7. If the approach of reliance on a single site for housing development in Tenterden is pursued it is essential that there is confidence that the site is ‘deliverable’ in accordance with paragraph 54 of PPS3 (i.e. available, suitable and achievable). It has not been demonstrated that TENT1 is deliverable (as set out below) raising serious questions about the deliverability and thus flexibility of the Tenterden and Rural Areas DPD (“The DPD”).
8. **DCLG Practice Guidance entitled ‘Strategic Housing Land Availability Assessments’** (2007) provides guidance on assessing site availability for housing (stage 7b, paragraph 39). It clearly states that *“a site is considered available for development, when, on the best information available, there is confidence that there are no legal or ownership problems, such as multiple ownership, ransom strips, tenancies or operational requirements of landowners. This means that it is controlled by a housing developer who has expressed an intention to develop, or the land owner has expressed an intention to sell”*.
9. The parcels of land comprising TENT1 are in a number of different separate ownerships. It is understood that the parcels of land are being promoted through the LDF separately and there is no apparent co-ordination of land ownership interests, no collaboration agreement or identified developer for the whole site.
10. Land Registry Searches have been carried out in respect of parts of TENT1 and surrounding land (see Appendix 12 of August 2009 submissions). The Land Registry results for the part of TENT1 identified as TENT30 in the Council’s Sustainability Appraisal is attached at Appendix B. It is evident that at least part of TENT1 is subject to covenants – a further hurdle to commencement of development as third parties and covenant beneficiaries will need to become involved in legal and collaboration agreements.
11. TENT1 clearly fails to satisfy the tests set out in the DCLG guidance for whether a site is ‘available’.
12. Whether a site is ‘available’ is closely linked to whether it is ‘achievable’. The DPD directs 300 dwellings to Tenterden between 2006-16, equating to 30 dwellings per annum or 150 dwellings over 5 years. This is a significant quantum. The multiple

ownerships, lack of collaboration agreement and need to address various covenants (in addition to on-site constraints and issues) relating to the site mean that it is considered highly unlikely that 150 (if any) units will be delivered on the site within five years.

13. Allocation of the site is contrary to national planning policy (in particular paragraph 54 of PPS3) and will make the DPD **less effective** in delivering housing.

Question 5.2 – Have key stakeholders such as landowners and infrastructure providers been sufficiently involved and engaged so that delivery in the timescale proposed is reasonably likely?

14. As set out in response to question 5.1 TENT1 comprises land within various different ownerships. Whilst it is understood that the Council have been in discussion with various landowners this is not considered sufficient to ensure that the site can be delivered in the timescale proposed (i.e. 2006 – 2016). As set out in the DCLG SHLAA guidance¹ a site should be controlled by a developer who has expressed an intention to develop, or the land owner should have expressed an intention to sell for the site to be considered deliverable. More fundamentally there are concerns regarding whether the site can be delivered at all (i.e. notwithstanding timescales).

Question 5.3 – Is there a need for a contingency strategy should delivery be delayed?

15. Paragraph 62 of PPS3 states that LDD's should include contingency planning to identify different delivery options, in the event that actual housing delivery does not occur at the rate expected and a risk assessment should be undertaken to identify obstacles and constraints to housing delivery with the development of management strategies to address any risks.
16. Paragraph 5.11 of the DPD proposes to phase the release of development over two phases:- 2006 – 2016 (phase 1) and post 2016 (phase 2). Sites identified for release in phase 2 would be reviewed as part of the first review of the Core Strategy and this DPD. It is stated that phase 2 sites could be brought forward into Phase 1 if other sites allocated in Phase 1 are not developed. Whilst not explicitly referred to

¹ DCLG Practice Guidance entitled 'Strategic Housing Land Availability Assessments' (2007)

as a contingency strategy this could be termed as such. There is no explicit contingency strategy within the DPD.

17. There is a fundamental failing in this strategy with regards to Tenterden. Phases 1 and 2 both rely on TENT1. The fundamental concerns raised regarding the deliverability of TENT1 in our previous submissions related to phase A and B of TENT1. If phase A fails to be delivered it follows that phase B will also not be deliverable. The Council itself acknowledges at paragraph 6.40 of the DPD that development of phase B without first completing phase A would lead to a detached settlement with a fragmented open area between Phase B and the existing town centre. This would be illogical and poor town planning.
18. '**LDF's, Examining DPD's: Soundness Guidance**'² states DPD's must be "*flexible enough to respond to a variety of, or unexpected changes in circumstances*". Reliance on a single site to deliver 55% of the total number of dwellings to be provided outside the Ashford Growth Area without a feasible contingency strategy will mean that the DPD is not **effective** (i.e. it will not be deliverable or flexible) and will seriously compromise the Council's ability to maintain a five year housing land supply.
19. Our submissions are that the omission site (identified as TENT13 by the Council) would provide a deliverable alternative site to TENT1 or could be developed alongside part of TENT1. The omission site is capable of accommodating approximately 162 dwellings³. The site would therefore need to be brought forward alongside another site(s) in order to meet the housing requirements for Tenterden. The site is of a size that it could replace phase B of TENT1 if necessary or part of phase A (alongside another suitable site).
20. As set out in our previous submissions the omission site is a deliverable site when assessed against the criteria set out at paragraph 54 of PPS3. The site is in single ownership and under option by Knightspur Properties Ltd who are in a position to bring the site forward for development straight away. Allocation of the site alongside part of TENT1 or another suitable site would ensure that the DPD had a contingency strategy (i.e. if one site failed to be delivered or delivery was delayed another site could come forward). An alternative contingency strategy would be to

² Published by the Planning Inspectorate in August 2009

³ At 30 dph

allocate the omission site as a reserve site – to be brought forward if TENT1 fails to be delivered or is delayed.

Question 5.4 – Is the housing allocation balanced by the provision of jobs and community and social infrastructure?

21. The Council's decision not to specifically allocate new employment sites is in line with the DPD evidence base, in particular the Ashford Borough Employment Land Review (2008).
22. 475 dwellings are directed to Tenterden over the Plan Period. This is not considered sufficient to justify new community and social infrastructure (i.e. new schools, doctors surgeries etc). Improvements to existing services (i.e. through expansion) should be sought through Policy TRS19 of the DPD. Knightspur Properties Ltd will meet reasonable costs of infrastructure provision. There are no on-site circumstances that may compromise the viability of the scheme and the ability to make financial contributions. On-site open space could be provided in addition to contributions to improve off-site facilities.

Question 5.5 – Does the strategy for Tenterden support and promote public transport and the limitation of reliance on the private car?

23. Whilst it is acknowledged that Tenterden is a popular tourist destination the provision of 200 car parking spaces within TENT1 is excessive. Provision of such accessible car parking will encourage residents of Tenterden to drive to the town centre. The majority of Tenterden is located within 2km of the town centre – the PPG13 recommended walking distance. There is significant scope to encourage walking and cycling within the town itself – the provision of 200 parking spaces is contrary to this.
24. The omission site supports the reduction of reliance on the private car (refer to paragraph 37 below) and is equal distance from the town centre as the southern part of TENT1.

Question 5.8 – Is TENT1 the best strategy when considered against reasonable alternatives?

25. The identification of TENT1 to deliver housing requirements in Tenterden is not considered to be the best strategy when considered against reasonable alternatives for two reasons:

- The reliance on a single site for the delivery of 55% of the Districts housing needs outside of the Ashford Growth Area is inflexible;
- There are serious concerns regarding the deliverability of TENT1 irrespective of timescales.

A full explanation of these two reasons is provided above and in our previous submissions.

26. The DPD is therefore not **justified** (i.e. it is not based on robust research and does not deliver the most appropriate strategy).

27. Allocation of the omission site along with other site(s) is considered to represent a more appropriate strategy. The allocation of more than one site will provide flexibility in the Plan, furthermore the omission site is available for development now.

28. An Illustrative Master Plan and Key Features summary (attached at Appendix C) demonstrates how the site can achieve approximately 162 dwellings (at 30 dph across the site) whilst:

- Creating a coherent layout;
- Not adversely affecting the AONB – substantial tree belts would be planted along the southern boundaries of the site;
- Respecting landform and neighbouring uses – the site is on lower ground than neighbouring residential development and Tenterden town centre.
- Having a negligible impact on the surrounding countryside and views from surrounding footpaths;
- Being sufficiently distant and screened by new trees to avoid any significant harm to the setting of the Listed Buildings of Belgar Farm (a point acknowledged by the previous Local Plan Inspector).
- Providing adequate access;
- Avoiding flood risk zones;

29. The illustrative Master Plan shows how the omission site could be developed as a whole or in part and how development could be phased. The submission refers to ‘the omission site’ as sites A – E inclusive, however the division of the site into smaller parcels of land allows flexibility in terms of allocating the whole or certain parcels of the site as well as phasing. The omission site could be brought forward to deliver up to about 40% (200 units) of the dwelling requirement for Tenterden (over a phased period if necessary) or as few as approximately 15 dwellings (i.e. site C) to meet an identified shortfall in housing numbers. The site provides the flexibility required to meet central government’s objectives of Plan, Monitor and Manage.

30. A letter from Stuart Michael Associates (Consulting Engineers) is attached at Appendix D. The letter concludes that the omission site can be satisfactorily accessed from Priory Way via Tilden Gill Road and Shrubcote.
31. It was noted in our August 2009 submission that the DPD Sustainability Appraisal fails to appraise the southern part of TENT1 (i.e. phase B). The Council have therefore failed to fully appraise the potential significant impacts that development of the site may have on the surrounding landscape and historic town of Tenterden. Allocation of the southern part of TENT1 is therefore not based on clear evidence and is thus not **justified**.
32. Failure to fully research and assess the implications of developing the southern part of TENT1 means there is no evidence base against which the Council can assess whether allocation of the whole of TENT1 is the best strategy. There is no basis for considering the site against reasonable alternatives.
33. The omission site is assessed in the Council's Sustainability Appraisal as TENT13. The findings of the SA are unjustified as explained in our previous submissions. An amended SA in respect of the omission site is attached at Appendix 15 of our August 2009 submission.
34. The omission site is assessed in both the SA and the SHLAA. The Council's main reasons for concluding that the site is unsuitable for development appear to be the impact the site would have on the setting of the Listed Properties of Belgar Farm and Weavers Barn and the sites proximity to the town centre.
35. Legislation regarding Listed Buildings and their setting is not intended to prevent new development near heritage assets. Rather, it is intended to ensure that new development is respectful of Listed Buildings and their settings. PPS5 acknowledges that new development can make a positive contribution to the character and local distinctiveness of the historic environment.
36. At the previous Local Plan Inquiry the Inspector considered the effect that development of site A of the omission site would have on the Listed Buildings at Belgar Farm. The Inspector's findings are referred to at paragraph 4.17 of our August 2009 submission.
37. The sustainability merits of the omission site are set out in full at paragraphs 4.1 to 4.6 of our August 2009 submission. Plan ref: 963-FS1 attached at Appendix E illustrates the sites proximity to key local services and facilities. In summary the site:

- Is well within the PPG13 recommended walking distance of a wide range of facilities within Tenterden;
- Is the closest of the sites put forward to the towns main employment site; Leigh Green Industrial Estate;
- Pedestrian and cycle links between the site and town centre are shorter than their vehicular equivalent;
- The previous Local Plan Inspector concluded that *“the land is within easy walking distance of the town centre ... Given its location, I doubt whether one could find more suitable land for sustainable housing than these sites”*.

38. It is acknowledged that other sites within Tenterden have been put forward as available sites for housing development. There are however considered to be significant constraints with a number of the larger sites (i.e. sites capable of delivering a significant proportion of the dwellings required to be provided in Tenterden) as summarised below (sites are referenced as by the Council in the SA and SHLAA):

- TENT07 (Proposed for allocation in Publication Version DPD as TENT2) – The site slopes steeply down from south to north. Development would be highly visible from the adjacent AONB and public footpaths.
- TENT17 – The site is isolated from the existing built form of the town.
- TENT18 – The site rises from west to east. Development would be highly visible from the AONB to the east. Development would also urbanise this rural part of the town and adversely impact upon the adjacent Conservation Area.
- TENT19 – The site forms a recreation ground / playing fields. Prior to loss or relocation the recreation ground / playing fields a PPG17 assessment on the quantitative and qualitative needs for playing fields in Tenterden would need to be undertaken. The site is not well related to the existing built form of the town.
- TENT20 – Development of the site would result in the loss of an important green gap between built form in Tenterden, close to the historic town centre and partly within the town’s Conservation Area. Development of the site would adversely affect the semi rural character of this part of the town.
- TENT26 – The site is isolated from the existing built form of the town and is entirely within the AONB.

39. The omission site meets the PPS3 criteria for deliverability, would support walking and cycling rather than reliance on the private car, would contribute towards affordable housing provision and the improvement of community and social infrastructure. In view of deliverability challenges associated with TENT1 allocation of the omission site (along with other site(s)) would result in the best strategy for housing delivery in Tenterden.
40. In its present form the allocation of TENT1 makes the DPD unsound.