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Issue 1. RN/204
Courtley Planning Consultants Ltd/
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EXAMINATION OF ASHFORD BC LOCAL PLAN 2030

ISSUE 1

Have the relevant procedural and legal requirements been met, including the duty to co-operate.

v) Does the Local Plan set a clear policy framework for the preparation of Neighbourhood Plans and provide for an effective relationship between the two? Should all policies within the Local Plan be treated as strategic for this purpose as set out in paragraph 2.8?

Submitted by Courtley Planning Consultants Ltd on behalf of Pent Ltd
March 2018

1. Key Evidence

1.1.1 The Local Plan 2030 has been influenced by a range of evidence within its background documents to the plan. This evidence base, together with the Local Plan should provide a clear policy framework for the preparation of Neighbourhood Plans and provide for an effective relationship between the two.

1.1.2 However, the Council either lack the appropriate evidence i.e. Brownfield Land Register (BLR); or has not properly completed its evidence i.e. SHELAA; or substantiated its methodology or recommendations in Sustainability Appraisal.

1.2 Sustainability Appraisal (SA/SEA)

1.2.1 Throughout the SA the report continued to state that “*As the opportunities for allocating brownfield sites have been maximised and site densities optimised, allocations would have to rely on greenfield sites*” (para 3.6.22, 3.6.23). Clearly this cannot be relied upon as the Council have not submitted a Brownfield Register. The SA then becomes contradictory in paragraph 3.8.26 when it considers the alternative distribution options for new housing, stating. “*Alternative 4.2, by locating development proportionately to the size of settlement, is most likely to be able to optimise the use of brownfield sites in Ashford, the rural service centres, other villages or the rural area (including employment opportunities within rural buildings) and therefore this alternative would be likely to have a significant positive impact on this objective*”. The evidence required to substantiate this claim is missing but could become available should the Council carryout the requirements set out in the Brownfield Land Register Regulations 2017.

1.2.3 The lack of a BLR is also at odds with the **Councils Policy SP1 –Strategic Objectives** which states: “*To deliver the ‘vision’, a number of strategic objectives have been identified. They form the basis of this Local Plan’s policy framework, as well as providing the core principles that planning applications are expected to adhere to.*

a) To focus development at accessible and sustainable locations which utilise existing infrastructure, facilities and services wherever possible and makes best use of suitable brownfield opportunities;” (my emphasis)

1.2.4 The SA also fails to consider options to “Rectifying the housing shortfall since 2011” referred to in para 3.37 of the Local Plan, in particular the option in part or fully for the rural area to meet this shortfall. The Council claim such an approach would lead to over 2000 additional new dwellings in the rural area. As we see above and later in this submission the level to which the rural areas can contribute to help meet this shortfall has not been researched or tested.

1.2.5 The alternatives to the distribution of new development across the Borough puts forward four options of which “*Alternative 4.2 – Focus a large majority of*

development in and on the periphery of Ashford urban area supported by proportionate growth in Tenterden; the rural service centres and other villages” appears to be the one the Council has taken forward in the Plan.

1.2.6 However, alternative 4.2 offers no guidance as to what a “large majority” might mean, does this represent 90%, 80% or 70%? What does “proportionate growth” in rural villages mean? The council sets out its description of its “Distribution of Housing Development” (para 3.31) at Ashford; Development at villages and Development in wider countryside but offers no housing numbers for each Parish Council to consider. It is hard to understand what exactly has been tested under Alternative 4.2 and what alternative might prove more sustainable. It isn’t helpful that an extreme scenario Alternative 4.3 focusing development outside Ashford urban area is one in which it is measured against.

1.2.7 What is required is the evidence base to be completed i.e. a Brownfield Land Register and the full assessments of sites submitted in the SHELAA i.e. Copfield Farm, Rolvenden.

1.2.8 Instead of using its appropriate evidence base to inform its housing strategy and distribution it relies upon policies for delivering unidentified **windfall** development in the form of **Policy HOU3a and Policy HOU5**. This does not provide an adequate policy framework for delivering the Borough’s housing needs nor does it assist Parish Councils in their preparation of Neighbourhood Plans (NP) e.g. the Rolvenden NP has no housing guidance from Ashford BC only a vague housing target across the borough of around 1000 dwellings identified as “Future Windfalls” in Table 1.

Policy HOU5 is also inconsistent with one of the NPPF core planning principles set out in paragraph 17 which state that “*plan-making and decision-taking should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area*”.

1.2.9 The SA claims to have considered reasonable alternatives within the SHELAA process and states sites have been removed through their screening stages. However, this appears to be at odds with Policy HOU5 which clearly will include sites likely to have been rejected under the SHELAA but could now meet these policy criteria.

1.2.10 The Councils SA/SEA does not seek to meet its assessed development needs and is therefore not positively prepared. The plan is not justified as it isn’t the most appropriate strategy, when considered against the reasonable alternatives based on proportionate evidence and fails to provide an effective and clear policy framework for the preparation of NP’s.

1.3 SHELAA July 2017 and Dec 2017 Addendum

1.3.1 The SHELAA Addendum produced in Dec 2017 stated that in addition to the sites put forward during the consultation, this report addresses the need to acknowledge the progress that has been made in the Rolvenden NP. Appendix 6

lists those sites where the relevant site analyses has been amended to reflect the fact that sites within the Rolvenden NP area will now be assessed through the NP process.

1.3.2 The list consists of 23 sites of which 11 were to be considered for final assessment through the Rolvenden NP. The Rolvenden Parish Council has submitted their Regulation 14 NP but has failed to carry out an assessment of RTW1 Copfield Farm, Rolvenden site within its “**Potential Housing Development Assessment 2017**”. It is however more worrying that Ashford BC SHELAA for Copfield Farm (RTW1) defines the site as a Poultry Farm when in fact the site has an implemented planning permission for 5032 sq m of B2 and B8 employment use since 2012 and this would make this site a candidate for inclusion within in the Councils Brownfield Land Register. If the Rolvenden NP was eventually to consider an assessment of Copfield Farm site with the evidence published in the SHELAA it could quite easily misinterpret the Councils assessment especially as the Council has failed to publish a Brownfield Land Register.

1.3.3 If the Council had undertaken a proper assessment of Copfield Farm and other sites submitted in the SHELAA then potential numerous sites might have come forward capable of meeting the “ Future Windfalls” target of 950 dwellings. These sites should be properly identified and appropriate policy issues addressed for each site. However, what we have are criteria based windfall policies HOU3a and HOU5. The SHELAA is the starting point following a “call for sites” on which a housing distribution strategy should be based. The role of rural housing provision is especially important were the council has indicated a housing shortfall since 2011 based upon a strategy past and present of concentrating housing around Ashford.

1.3.4 The Plan in para 3.37.4 state that the only alternative option would be to require the rural area to rectify the housing shortfall, entirely on its own. Although not entirely true the degree to which more housing can be met in the rural areas has not been tested either through the SHELAA process, the Brownfield Land Register or the SA. The SA only offers a scenario in **Alternative 4.3 of a focus of significant development outside of the Ashford area** but does not define what “significant” means or by using the SHELAA/ Brownfield Land Register what rural sites are available for housing and what numerically these might provide across the Plan period. If the Council carried out this process properly it is arguable that Policy HOU5 would not be required. This would give Parish Councils and NP plans more control over the choice of sites. However, without proper strategic rural housing figures no proper planning can be delivered in the rural areas.

1.3.5 This is not a sound approach. It is neither positively prepared way to meet its objectively assessed development needs nor is it justified when measured against available alternatives. The Councils current housing strategy is therefore ineffective as evidenced over the past decade with the excessive reliance on development on large urban extensions around Ashford which have not delivered the housing numbers required.

1.4 The Town & Country Planning (Brownfield Land Register) 2017

1.4.1 In April 2017 the Brownfield Land Register Regulations were introduced requiring all local planning authorities in England to publish brownfield registers by the end of December 2017 and to review them at least once a year. The regulations state that sites entered onto the registers should be at least 0.25 hectares in size or capable of supporting at least five dwellings, and suitable and available for residential development. **We understand Ashford BC has not produced a Brownfield Land Register nor does any such register appear in its evidence base.**

1.4.2 Brownfield Land Registers must be split into two parts. Part one should comprise all brownfield sites that a local planning authority has assessed as appropriate for residential development, having carried out any appropriate procedures, such as consultation (my Emphasis). This should include all sites with full or outline planning permission in principle, as well as those without planning permission (my emphasis).

1.4.3 It is the brownfield sites without planning permission in which I have a particularly interest. The Brownfield Land Register defines “**suitable for residential development**” in relation to any land means that land at the entry date-

“(a) has been allocated in a local development plan document for residential development;

(b) has planning permission for residential development;

(c) has a grant of permission in principle for residential development; or

(d) is, in the opinion of the local planning authority, appropriate for residential, having regard to-

(i) any adverse impact on-

(aa) the natural environment;

(bb) the local built environment, including in particular on heritage assets;

(ii) any adverse impact on the local amenity which such development might cause for intended occupiers of the development or for occupiers of neighbouring properties; and

(iii) any relevant representations received.”

1.4.4 Copfield Farm, Rolvenden site (RTW1) has been submitted to the Council throughout the SHLAA/SHELAA process. Representations have been made to the Council throughout the current Local Plan process on the sites suitability, availability and achievability to deliver housing on site to help meet the Borough’s housing needs.

1.4.5 We expressed our interest in submitting Copfield Farm as a candidate for inclusion in the Brownfield Land Register to Richard Alderton (Ashford BC Planning Department) in May 2016 following publication of the Housing & Planning Bill. We asked whether the Council would do a fresh call for sites for the register or use the SHELAA to make an assessment of current brownfield site submissions. We were eventually contacted and informed they would be a new call for sites. However, towards the end of the 2017 we were informed the Council would not be producing a Brownfield land Register due to work commitments on the Local Plan.

1.4.6 The failure of the Council to undertake the obligations set out in the Brownfield Land Register Regulations 2017 leaves a significant gap in the Councils evidence base.

1.4.6 On of the core principles of the NPPF paragraph 17 encourages the effective use of land by re-using land that has been previously developed. A number of brownfield sites in current or previous economic use are located in the countryside. Such sites are outside of the settlement boundaries, and countryside policies apply.

1.4.7 The adopted Maidstone Local Plan (2017) has a Policy DM5 “Development on brownfield land”. This paragraph 6.37 states that: *“Exceptionally, the Council will consider proposals for residential development on brownfield sites in rural areas. Key considerations will include:*

- *The level of harm to the character and appearance of an area;*
- *The impact of proposals on the landscape and environment;*
- *Any positive impacts on residential amenity;*
- *What sustainable travel modes are available or could be reasonably be provided;*
- *What traffic the present or past use has generated; and*
- *The number of car movements that would be generated by the new use; and what distances, if there are no more sustainable alternatives. “*

1.4.8 We recommend that Ashford BC publish its Brownfield Land Register and adopt a similar policy approach to the development on brownfield land as adopted in the Maidstone Local Plan. This would be complementary to the direction of travel set out by the government in the Brownfield Land Register regulations and be consistent with NPPF core planning principles. (See attached Appendix 1 copy of Policy DM5 Maidstone Local Plan).

1.5 Conclusions

1.5.1 The Local Plan has failed to obtain or use an appropriate robust evidence base needed to “To boost significantly the supply of housing” (NPPF para 47). The Council has no Brownfield Land Register and has failed to properly complete the assessment of sites submitted during the SHELAA process relying in the case of Rolvenden for this to be carried out under that NP. Not only has this not be done under the Rolvenden NP Regulation 14 submission but the information already

completed in the SHELAA under RTW1 (Copfield Farm) is incorrect by referring to the site as a poultry farm when it is a brownfield site.

1.5.2 The SA relies upon the robustness of the SHELAA as part of its assessment process. However, the Council fails to set out any guidelines on housing needs across the rural area of the Borough or its potential role in meeting some of its housing shortfall. The SA cannot consider whether focus on Ashford is the most appropriate strategy when measured against a reasonable alternative for a greater contributory role for the rural areas in helping to meet the Councils housing needs and its 5 year housing supply.

1.5.3 The SA considers **Alternative 4.3** Focusing a **significant** amount of housing the rural areas but hasn't consider a level where this may not be significant but sufficient to help meet the Councils housing needs. The SA preferred **Alternative 4.2** focus growth around Ashford and use the phrase "*supported by proportionate growth in Tenterden; rural service centres and other villages*" without any numerical guide as to what proportionate is for each rural area. The SA can't do this because the Council doesn't know as the SHELAA is deficient and the Brownfield Land Register has not been completed. It hasn't therefore the evidence available to consider properly the role of the rural area or understand what "proportionate" or "significant" actually means.

1.5.4 The Council should re-examine and re-evaluate it SHELAA and consider what is a suitable housing number for the rural area(s)? An important component of this process should also include the assessments of sites for inclusion in the Brownfield Land Register. Once this evidence base is available the Council should set out a strategic policy for housing distribution across the rural area and have it tested under a new SA/SEA.

APPENDIX 1: Extract from Maidstone BC adopted Local Plan October 2017.

“Policy DM5 Development on brownfield land

6.34 One of the core principles of the NPPF encourages the effective use of land by re-using land that has been previously developed, provided it is not of high environmental value. This is known as brownfield land and a large proportion of brownfield sites in the Maidstone urban area have been developed at high densities for housing in recent years, particularly in and adjacent to the town centre along the River Medway. Making the best use of previously developed land will continue to be encouraged throughout the lifetime of this plan.

6.35 It is important to ensure that brownfield land is not underused and that the most is made of vacant and derelict land and buildings in order to reduce the need for greenfield land, which is a finite resource and often of higher quality in terms of landscape and biodiversity.

6.36 Brownfield development is essential for urban regeneration and, if designed to a high standard, it brings homes, jobs and services closer together; reduces dependency on the car; and strengthens communities.

6.37 A number of brownfield sites in current or previous economic use are located in the countryside. Such sites are outside of the settlement boundaries, and countryside restraint policies apply. Exceptionally, the council will consider proposals for residential development on brownfield sites in rural areas. Key considerations will include:

- The level of harm to the character and appearance of an area;
- The impact of proposals on the landscape and environment;
- Any positive impacts on residential amenity;
- What sustainable travel modes are available or could reasonably be provided;
- What traffic the present or past use has generated; and
- The number of car movements that would be generated by the new use, and what distances, if there are no more sustainable alternatives.

6.38 Residential gardens in urban and rural areas are excluded from the definition of a brownfield site.

Policy DM 5

Development on brownfield land

1. Proposals for development on previously developed land (brownfield land) in Maidstone urban area, rural service centres and larger villages that make effective and efficient use of land and which meet the following criteria will be permitted:

- i. The site is not of high environmental value; and

ii. If the proposal is for residential development, the density of new housing proposals reflects the character and appearance of individual localities, and is consistent with policy DM12 unless there are justifiable planning reasons for a change in density.

2. Exceptionally, the residential redevelopment of brownfield sites in the countryside which are not residential gardens and which meet the above criteria will be permitted provided the redevelopment will also result in a significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or larger village."