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## **INSPECTORS' ISSUES AND QUESTIONS – PART 1**

This note contains the main issues we have identified in relation to the strategic and housing topic policies in order to determine the soundness and legal compliance of the Local Plan. A separate note dealing with the site policies and other topic policies will be produced shortly.

The issues and questions raised in relation to the soundness of the Local Plan will form the basis of the hearing sessions to be held. They may also be addressed in any hearing statement. General advice about statements is contained in our guidance note which has been issued at the same time.

Should, as a result of these questions, changes be proposed by the Council to any of the policies or text then these should be included in a schedule of proposed changes to the submission plan. This should be published prior to the examination hearings.

### **Issue 1**

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

- i) Is the Sustainability Appraisal (SA) (SD02) undertaken suitably comprehensive and satisfactory and has it sufficiently evaluated reasonable alternatives?
- ii) Having regard to the evidence in its duty to co-operate statement (SD07) has the Council engaged constructively, actively and on an on-going basis with neighbouring authorities? In particular, has consideration been given to meeting unmet requirements from neighbouring authorities in both Kent and East Sussex?
- iii) Does the Habitats (Appropriate Assessment) Screening Report (SD11) comply with the Conservation of Habitats and Species Regulations 2017? Does it adequately address whether the Local Plan would have a likely significant effect on European conservation sites either alone or in combination with other plans or projects?
- iv) In preparing the Local Plan has the Council complied with its Statement of Community Involvement (GBD14)?

- 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?
- vi) In the light of Regulation 4 of the 2017 Regulations which requires a review to be completed every 5 years should the commitment in paragraph 2.26 and in Chapter 6 to adopting a further plan by 2025 be adjusted?

## **Issue 2**

***Are the spatial vision and objectives for Ashford sound having regard to achieving sustainable development and the trends and challenges in the Borough?***

## **Issue 3**

***Are the strategic objectives and the strategic approach to housing delivery and economic development delivery in terms of distribution and location sound having regard to the needs and demands of the Borough, national policy and Government objectives and the evidence base and preparatory processes? Has the Local Plan been positively prepared?***

- i) Is the strategy selected for the distribution of housing and economic growth, with the emphasis on Ashford town, justified compared to the reasonable alternatives? What is the proportion of development proposed in the urban and rural areas across the plan period? How sensitive are the rural areas to further growth?
- ii) Is the plan period of sufficient length to ensure the delivery of the strategic objectives?
- iii) Will the strategy satisfactorily and sustainably deliver the new development and infrastructure needed over the plan period?
- iv) In assessing the viability of the Local Plan and having regard to paragraph 173 of the NPPF has sufficient account been taken of all the relevant standards in the Plan and the future implications of CIL?
- v) In setting the strategic objectives and the approach to delivery has regard been had to the purposes of the Areas of Outstanding Natural Beauty within the Borough as required by section 85 of the Countryside and Rights of Way Act 2000 and as explained in the PPG on Natural Environment? (ID 8-003-20140306)?
- vi) Does the Local Plan plan positively for the infrastructure required across the Borough? Does the Local Plan make clear, for at least the first five years, what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development in line with the PPG on *Local Plans* (ID 12-018-20140306)? In particular, the Infrastructure Delivery Plan (SD10) identifies a need for additional provision in respect of education, waste water, health infrastructure,

sports provision, strategic parks, green space and allotments. Where and how is that provision to be made?

**Issue 4:**

***Is the housing requirement justified and deliverable and has it been calculated in accordance with national policy and guidance?***

- i) What weight should be given to the new standardised methodology for calculating local housing need set out in the housing White Paper of February 2017 and the Government consultation of September 2017 on Planning for the right homes in the right places?
- ii) Is the housing market area suitably defined having regard to the PPG on *Housing and economic development needs assessments* (ID02a-011-20140306)?
- iii) Is the figure of 754 households per annum justified as the starting point for establishing objectively assessed need and has it been properly derived from the 2014 population and household projections?
- iv) Is the vacancy allowance of 4.2% a suitable one?
- v) Should any demographic adjustment be made to the household projections due to specific local circumstances (ID02a-017-20140306)?
- vi) Have employment trends in the Strategic Employment Options Report (EBD04) been properly taken into account (ID02a-018-20140306) and is the selection of a baseline economic growth scenario justified?
- vii) Has the housing need number suggested by the household projections been adequately adjusted to reflect appropriate market signals relative to local or national averages as per ID02a-019 & 020-20140306? Is the proposed upward adjustment of 5% reasonable and is the impact of this figure or a higher one on overall stock growth relevant in determining objectively assessed need?
- viii) Is the allowance for 442 dwellings over the plan period to cater for increased out migration from London justified and adequate? Is the figure part of the objectively assessed need and should it only be applied from 2017 onwards?
- ix) Has an allowance been made for vacancy and second home ownership of existing and future housing stock?
- x) Has the Council adequately considered increasing the total housing figures in order to help deliver the required number of affordable homes in accordance with the PPG (ID 2a-029-20140306)?
- xi) Should the housing requirement be set out in policy as an annual average or should a stepped requirement be included?

**Issue 5:**

***Will the Local Plan meet the housing requirement over the plan period?  
Will there be a 5 year supply of deliverable housing sites with an appropriate buffer?***

- i) Are the assumptions and analysis regarding site suitability, availability and achievability and development capacity in the Strategic Housing and Employment Land Availability Assessment (SD12) reasonable and realistic? Is this assessment sufficiently comprehensive and rigorous having regard to the PPG on *Housing and economic land availability assessment* (ID3)?
- ii) Are the sites relied upon for the supply of housing deliverable and developable in accordance with paragraph 47 of the NPPF? Does the evidence provided in Appendices 1 and 2 of the Housing Topic Paper (SD08) give sufficient confidence that sites will be delivered as anticipated? Is there an over-reliance on large site allocations?
- iii) What should be the starting date for the consideration of a 5 year supply?
- iv) How is any shortfall in delivery since the start of the plan period to be dealt with? Should this undersupply be dealt with within the first 5 years or over a longer period? Should the shortfall be calculated against the Strategic Housing Market Assessment (SD13) figure of 825 dwellings per annum or the annual housing target in Table 1 of 848 dwellings per annum? Is the application of a 20% buffer in addition to the annualised housing target and the shortfall since 2011 justified?
- v) Is the housing trajectory at Appendix 5 realistic and does it form an appropriate basis for assessing whether sites are deliverable in line with footnote 11 of the NPPF?
- vi) Does the contingency buffer of over 1,000 dwellings provide sufficient flexibility to accommodate unexpected delays whilst maintaining an adequate supply?
- vii) Has the Council made reasonable assumptions about average densities in Table 1 of the Strategic Housing and Employment Land Availability Assessment (SD12) bearing in mind PPG advice (ID3-017-20140306)? Has this been translated into the capacity estimates for allocated sites?
- viii) Is the approach to windfall sites justified having regard to paragraph 48 of the NPPF? Why is it assumed that there will be 150 windfall units in 2021 and 100 from 2022-2030? Having regard to paragraph 48 of the NPPF should windfall sites be included in the 5 year supply? Is the 25% non-delivery rate of extant windfalls reasonable?
- ix) Does the Local Plan contain a housing implementation strategy describing how delivery of a five year supply of housing land to meet the housing requirement will be maintained in accordance with paragraph 47 of the NPPF?

- x) How would the supply of housing sites be monitored and managed?

**Issue 6:**

***Is the overall target for affordable housing and the type of tenure justified? Does the Local Plan make adequate provision for specialist housing?***

- i) Has the need for affordable housing in the Strategic Housing Market Assessment (SD13) been calculated in accordance with paragraphs 022 to 028 of the PPG on *Housing and economic needs assessments* (ID02a)?
- ii) In Policy HOU1 what is the justification for departing from national policy in the Written Ministerial Statement of November 2014 and referred to in the PPG on Planning Obligations (ID23b-031-20160519) regarding the site thresholds for affordable housing?
- iii) Are the percentages sought for the 3 different areas of the Borough for the total affordable housing requirement and the different types of tenure justified? Are the boundaries of the different areas properly defined?
- iv) Does the Local Plan adequately address the needs for all types of housing (excluding affordable housing) and the needs of different groups in the community as set out in paragraph 159 of the NPPF?

**Issue 7:**

***Does the Local Plan make adequate provision for gypsy and traveller sites and is it consistent with national policy?***

- i) Does the Gypsy, Traveller and Travelling Showpeople Accommodation Assessment of 2013 (GBD16) provide a robust evidence base to establish the starting point for accommodation needs in accordance with paragraph 7 of the Planning Policy for Traveller Sites (PPTS)?
- ii) Is the figure of 54 pitches, based on the 2016 update of GBD16, a reasonable assessment of need over the plan period for those who comply with the definition at Annex 1 of the PPTS?
- iii) How does the Council intend to deal with the needs of people defined by section 124 of the Housing and Planning Act including those residing in or resorting to the District with respect to the provision of sites on which caravans can be stationed?
- iv) Does the Local Plan identify a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against a locally set target as per paragraph 10 a) of the PPTS?
- v) Is the adoption of a windfall traveller policy consistent with the PPTS and is it justified?
- vi) Have all potential sites been fully considered against reasonable criteria? Does the sustainability appraisal (SD02) undertaken for gypsy and

traveller sites (May 2016) take sufficient account of the criteria in paragraph 13 of the PPTS which are intended to ensure that sites are sustainable economically, socially and environmentally?

- vii) Will the Local Plan be sound if addressing the full accommodation needs of gypsies and travellers is left to a separate development plan document? What commitment is there to its production? Should the provisions of the Local Development Scheme (GBD15) that adoption will take place in early 2019 be written into the Local Plan?
- viii) Are the proposed allocations S43 and S44 justified and deliverable? Are the limits on the number of pitches and the other detailed criteria justified?
- ix) Are the criteria in Policy HOU16 fair when compared to the provisions of Policy HOU5 for residential windfall development and will they facilitate the traditional and nomadic life of travellers while respecting the interests of the settled community? Given that there is unmet need in Ashford is criterion a) justified? What is the justification for the 5 pitch limit in criterion b)? How will the requirement for ready access to local service and facilities in criterion e) be interpreted? Is reference to Landscape Character Areas in criterion g) justified?
- x) What is the rationale for criteria a) and c) of Policy HOU17 on safeguarding existing traveller sites?

**Issue 8:**

***Are the quantum of new employment land and expectations for job creation and the delivery of retail and leisure needs justified, deliverable and consistent with national policy? Will the Local Plan ensure the future supply of land available for economic development and its sufficiency and suitability to meet identified needs?***

- i) The Rural Economic Assessment (EBD01) recommends a combination of site allocations and a market-led approach. How have these findings been translated into the Local Plan?
- ii) Where and how are the new employment land and jobs referred to in Policy SP3 to be delivered?
- iii) In criterion b) of Policy SP3 what is meant by the "appropriate retention"? What does the approach in criterion d) imply in practice and is it consistent with national policy? Is the impact of criterion e) sufficiently clear? How is the aspiration to improve workforce skills in criterion f) to be achieved?
- iv) Does the Retail and Leisure Needs Assessment (EBD03) provide an adequate assessment of comparison retail needs?
- v) Should Policy SP4 set a target or requirement for the delivery of retail development both in Ashford town centre and at Tenterden and the other centres?

- vi) Is there sufficient scope to meet the retail needs to 2030 identified in the Retail and Leisure Needs Assessment? Are specific allocations required to achieve this? Are the existing commitments and proposals in the pipeline likely to come forward during the plan period?

**Issue 9:**

***Is the policy for Ashford town centre justified, deliverable and consistent with national policy?***

- i) Is the vision for Ashford town centre justified and is it properly reflected in Policy SP5? Is it consistent with paragraph 23 of the NPPF?
- ii) Has the town centre boundary been properly defined? Does the policy properly reflect the primary and secondary frontages and associated policy requirements in Policy EMP7?
- iii) Is the reference to the sequential test requirements in Policy EMP9 justified and necessary?
- iv) Is the expectation that development makes a significant contribution to improving character in criterion a) justified having regard to national policy and Policy SP6 of the Local Plan? Should it be made clear that residential development will be supported in criterion b) except when contrary to Policies EMP7 and EMP8? What is meant by a “balanced approach” to office parking needs and how does this relate to the parking standards in Policy TR3(b)? Is the “flexible approach” referred to in criterion e) consistent with Policy IMP2 on deferred contributions?
- v) Is the delivery of the town centre vision affected by the provision of multi-storey car parks referred to in Policy TRA2?

**Issue 10:**

***Are the other topic policies for housing including high quality design justified, deliverable and consistent with national policy? Will they be effective?***

- i) In promoting high quality design does Policy SP6 make adequate provision for inclusive design and accessible environments in accordance with the NPPF?
- ii) How does protecting the character and identity of settlements as intended by Policy SP7 achieve sustainable development? Will it be effective in ensuring the separation of settlements? Should there be a firmer commitment to defined green corridors around Ashford and some settlements rather than making assessments on a case-by-case basis?
- iii) Should the settlements identified for windfall development in Policy HOU3a have defined boundary lines? Is the list of settlements justified having regard to achieving sustainable development?

- iv) In criterion a) of Policy HOU3a what is the meaning of “appropriate to”? Is criterion c) unduly restrictive or unclear? Does criterion h) provide sufficient flexibility to reflect the replacement of existing facilities or circumstances when they are no longer in use and unlikely to be required for the foreseeable future and does it have regard to the provisions in this respect in Policies EMP2 and COM1?
- v) In Policy HOU5 how will criterion a) regarding proportionate and commensurate development be assessed? Will the expectation in criterion b) that the site is within easy walking distance of basic services prevent development taking place? How will development be expected to maximise the use of public transport, cycling and walking near to rural settlements in criterion d)? Would criterion f) ii) regarding settlement setting be unduly restrictive in that any new built development is liable to have some impact in this respect? Is it clear what is meant by an “appropriately sized” buffer zone in criterion f) iii)? Is it reasonable to expect all development to enhance biodiversity interests in accordance with criterion f) vi)?
- vi) What is the evidence, including that from the register, to justify the site thresholds and proportion of self and custom build development in Policy HOU6? Does the policy include sufficient flexibility and are criteria a) – c) justified?
- vii) Policies HOU7, HOU8, HOU9 and HOU10 address the effect of development on the character and appearance of an area and the effect on neighbouring uses using different language. Is it the intention to consider these issues differently for the different types of development? If so, what is the justification for this and would it be effective?
- viii) In Policy HOU7, is the use of planning obligations to remove permitted development rights and to ensure removal of existing buildings be consistent with the requirements of paragraphs 203 and 204 of the NPPF? Is the approach to removing permitted development rights be consistent with PPG (ID 21a-017-20140306) which indicates that there should be exceptional circumstances for this?
- ix) For effectiveness, should the reference in paragraph 5.79 to taking account of the existing standard of accommodation be reflected in Policy HOU8?
- x) Although only expressed in paragraph 5.82, what is the justification for requiring standalone annexes to be supported by evidence of need? If justified, should this requirement be included in Policy HOU9? As annexes physically linked to an existing building are assessed under Policy HOU8, how would the requirement for need be applied for that type of development?
- xi) In terms of effectiveness, does Policy HOU10 add anything which is not already addressed by policies HOU3a and HOU5? Is it possible that the slightly different tests set out in these policies would result in a lack of clarity and predictability? Does Policy HOU10 adequately address the



issues raised in paragraphs 5.84 – 5.86? In particular, would it be effective in addressing the balance referred to in paragraph 5.85? Should any distinction be made within the policy to any differences in approach to gardens in built-up areas and those in the countryside?

- xii) Is criterion b) of Policy HOU11 sufficiently clear as to what is meant by “insufficient onsite parking provision” as the parking standards set out in Policy TRA3a do not appear to relate to HMOs? On what basis would onsite parking levels be assessed?
- xiii) The WMS of 25 March 2015 establishes that optional space, accessibility and water efficiency standards should only be required if they address a clearly evidenced need and where their impact on viability has been considered. In relation to policies HOU12, HOU14 and ENV7, what is the evidence in relation to need and viability for use of the nationally described standards? Has the Council had regard to the PPG on Housing – Option Technical Standards and paragraphs 006, 007, 008, 009, 015, 016, 017 and 020 in particular? Is there any requirement for a transitional period in any of these policies as referred to in paragraph 020 of the PPG?
- xiv) Is Policy HOU15 too prescriptive in relation to the 10m depth of gardens and does it adequately reflect paragraph 5.106 in terms of being flexible depending on individual circumstances? Does the ‘rule of thumb’ of using dwelling width adequately address the needs of different types or sizes of dwelling or the specific characteristics of individual sites?
- xv) The NPPF refers to planning for a mix of housing. Is it effective plan-making to leave the specific range and mix of housing in Ashford to be settled on a case-by-case basis in accordance with Policy HOU18? Can specific proportions of different types of housing be identified? Should the reference to viability in paragraph 5.127.4 be included in the policy? For effectiveness, should the exemption for flatted development also be reflected in the policy?

**Issue 11:**

***Are the strategic transport schemes referred to in Policy TRA1 justified and will they be delivered in timely fashion so as to facilitate growth and environmental benefits?***

- i) Is it realistic to expect that the Junction 10a scheme will be completed and open to traffic in August 2019? Would these improvements provide adequate capacity for the development anticipated during the plan period and beyond? Is it reasonable to require financial contributions to be made as part of a number of the site allocation policies if the work is already funded? Are suitable safeguards in place to ensure adequate capacity is in place before occupation of new development occurs?
- ii) What would be the benefits of the Pound Lane link road? What is the latest position regarding its delivery? Is the development of sites S3, S4 and S5 dependent on this and is any connection adequately expressed in the site allocation policies?

*David Smith*

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INSPECTORS

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