

# Council's Response to Inspector's Issues and Questions

## Issue 1

27 March 2018



### Issue 1: Have the relevant procedural and legal requirements been met, including the duty to co-operate?

i)	<b>Is the Sustainability Appraisal (SA) (SD02) undertaken suitably comprehensive and satisfactory and has it sufficiently evaluated reasonable alternatives?</b>
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1. The SA has been undertaken suitably, comprehensively and satisfactorily, including its assessment of the reasonable alternatives. As set out in the SA Reports (SD02) the SA has been carried out in accordance with the statutory requirements and guidance.
2. Four documents make up the SA (SD02):
  - SA Environmental Report (May 2016) including Appendices
  - SA Environmental Report Gypsy and Traveller sites (May 2016)
  - SA Environment Report Addendum (July 2017)
  - SA Environment Report Update Report (November 2017)
3. Section 1.3 of SA Environmental Report (May 2016) explains the process by which the original SA up to the original Regulation 19 consultation was carried out. The Addendum (July 2017) and Update (November 2017) to the SA Environmental Report set out the additional SA work that was undertaken following the Regulation 19 consultations in 2017 and 2018, respectively. The scope of the SA was devised, in consultation with the required consultation bodies as set out in Chapter 2 (page 11) of the Environmental Report (2016). The full scoping report is set out at Appendix 1 of that document.
4. The likely significant effects of implementing the plan, and the reasonable alternatives, have been identified, described and evaluated as required by Article 5 (1) of the SEA Directive. These are set out in Chapter 3, 4 and 5 of the SA Report (May 2016).
5. The reasonable alternatives have been identified based upon the relevant evidence base, and described and evaluated against the sustainability issues identified at the scoping stage. The evaluation process has been an iterative process spanning the preparation of the Plan.

6. Chapter 3 of the 2016 SA Report covers the vision, objectives and strategic proposals for employment and housing development, including the reasonable alternatives. The assessment also sets out the reasons for the selection of the preferred alternative within the Plan. In evaluating reasonable alternatives, realistic options for economic growth and for housing growth were examined (as well as for the strategic distribution of development – see Issue 2 i)). Section 3.5 details the four reasonable alternative options evaluated, together with the resultant number of dwellings to serve such a level of growth. These were:
  - the baseline projection, with growth in employment of 12,400 jobs over the 2010 – 2030 period. (To serve this level of growth would require some 15,965 dwellings).
  - a downside risks scenario resulting in a growth in employment of 9,200 jobs. (To serve this level of growth would require some 11,549 dwellings).
  - an enhanced performance with a growth of 15,900 jobs. (to serve this level of growth would require some 16,885 dwellings).
  - and an enhanced productivity scenario which forecasted a growth of 14,300 jobs. (to serve this level of growth would require some 15,825 dwellings).
7. Table 7 of the SA report (2016) assessed the reasonable alternatives against the SA objectives.
8. Section 3.6 then details the four reasonable alternatives for housing growth in the Borough over the Plan period evaluated in the SA. These were
  - meeting the objectively assessed need (OAN),
  - meeting the OAN with some additional housing to help accommodate migration from London,
  - meeting the OAN with an uplift to achieve planned job growth (the ‘baseline’ economic growth scenario)
  - meeting the OAN of the enhanced performance and productivity employment scenarios.
9. Two unreasonable alternatives were also examined; firstly, not meeting the OAN and, secondly, meeting the OAN with a significant uplift to assist affordable housing provision. Table 9 of the SA Report (2016) assesses the housing reasonable alternatives against the SA objectives. The unreasonable alternatives were not assessed against the SA objectives.
10. Section 3.7 of the SA Report 2016 evaluates the cumulative impact of two reasonable alternatives for employment and housing growth, the baseline employment scenario with housing provision to meet the OAN with an uplift to achieve the baseline employment scenario and London migration (14,680 dwellings, 12,400 jobs) and the enhanced performance/productivity employment scenarios with sufficient housing to serve employment needs (15,825 dwellings to support employment growth of 14,300 or 16,885 dwellings to support employment growth of 15,900) against Local Plan objectives (Table 10).
11. It should be noted that the SA Report 2016 was produced in the context of the initial

assessment of OAN contained within the initial SHMA produced in 2014 and hence the relationship between the demographic-based element of the OAN and the employment scenarios was different to that subsequently considered in the SA Addendum in 2017 when the OAN was assessed to be higher due principally to demographic reasons.

12. The evaluation of strategic proposals and reasonable alternatives was updated following the Regulation 19 consultation and the release of the 2014 based sub-national population projections and household projections and resultant update of the SHMA in January 2017, to ensure that the evidence regarding the OAN for the borough was based on the most up to date projections. This formed part of the SA Addendum (July 2017) that was published and consulted upon in summer 2017.
13. With regard to the evaluation of reasonable alternatives, the revised housing requirement arising from the SHMA Update in January 2017 is within the ‘envelope’ of that assessed as part of Alternative 2.4 of the original assessment of alternatives in the SA Report of May 2016 (i.e. meeting the housing need of the enhanced performance/productivity employment scenario). On the basis that this revised target fell within the scope of the original evaluations of reasonable alternatives against the SA objectives, it was concluded that a further separate ‘reasonable alternative’ was not required to be created and assessed.
14. Section 3.1 of the SA Addendum Report (July 2017) considered the increased housing target arising from the revised SHMA and found that there would be additional significant negative impacts on five of the SA objectives. This would, however, be counter-balanced to some degree by the additional positive impacts of providing additional housing to meet objectively assessed housing needs and that, through appropriate site selection and detailed proposals, the opportunity to mitigate some of the negative impacts of a higher housing quantum could be off-set.
15. Chapter 4 of the 2016 SA Report sets out the assessment of site proposals, including reasonable alternative sites. This chapter was updated at Chapter 4 of the Addendum (2017), and the Update (2017). Chapter 5 assesses the likely effect of strategic and topic policies and is updated by Chapter 5 of the Addendum (2017). No changes to the reasonable alternatives were made in the 2017 Update.
16. The SA for Gypsy and Traveller sites and policies was carried out alongside the rest of the Plan, and a separate report was produced to cover these issues.

ii)	<b>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?</b>
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17. The Duty to Co-operate statement (SD07) clearly sets out how the Council has engaged constructively, actively and on an on-going basis with its neighbouring authorities.
18. The consideration of the accommodation of unmet housing needs is explained in section 3.4 of that document.

iii)	<b>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?</b>
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19. Yes. The Habitats Regulations (Appropriate Assessment) Screening Report (the HRA) (SD11) is compliant with the Conservation of Habitats and Species Regulations 2017. In particular, it adequately addresses whether the Local Plan would have a likely significant effect on European conservation sites, either alone or in combination with other plans or projects.
20. A HRA Reports was undertaken, in consultation with Natural England, as part of the Regulation 19 stage of the Local Plan (June 2016). Following public consultation on the Regulation 19 Version of the Local Plan between June and August 2016 a number of modifications were made to the Plan and a number of new policies introduced. Such main changes were assessed in an HRA Update Report (June 2017), which also updated the baseline data where necessary. Consultation on the Main Changes included representation from Natural England that the HRA reflect the Wealden judgement of 2016 on air quality impacts for European sites. The HRA was further updated to take account of this representation (December 2017, SD11)

21. Section 2 of the HRA identifies the European conservation Sites situated in, and within a broad vicinity of, Ashford Borough that could be affected by the development proposed in the Ashford Local Plan 2030. In this, regard was had to the European sites screened as part of the preparation of previous Local Development Framework Plans and Development Plan Documents which will be superseded by the Ashford Local Plan 2030. The HRA presents up to date baseline data for each site, covering details of qualifying interest features and information on the condition and vulnerabilities and, where available the conservation objectives of these European sites. Such analysis concluded that the European Sites of the Wye and Crundale Downs SAC, the Dungeness, Romney Marsh

and Rye Bay SPA, SAC and Ramsar sites and the Stodmarsh SAC, SPA and Ramsar sites were reasonably deemed to comprise the European Sites at risk of harm from environmental changes arising from new development as proposed in the Ashford Local Plan 2030.

22. The nature and extent of such environmental changes is assessed in Section 3 of the HRA. Those presenting the potential for significant adverse effect were considered as being

- Direct habitat loss, physical damage, or habitat fragmentation as a result of new development on or adjacent to European sites
- Disturbance caused by noise, light or visual impact as a result of new development on or adjacent to European sites
- Changes in bird populations due to cat predation as a result of increased urbanisation on or adjacent to European sites
- Physical damage or disturbance because of increased recreational activities on or adjacent to European sites
- Changes in air quality because of increased emissions to air associated with new development, as a result of increased vehicle use, demand for power generation or industrial processes
- Changes in water quality because of the discharge of contaminated or silt-laden surface water run-off, discharge of sewage effluent from new development or associated sewage treatment works, or increased abstraction resulting in reducing dilution capacity with a fluvial system
- Changes in water levels because of increased abstraction to serve new development

23. In accordance with regulations and guidance, Section 4 of the HRA presents the results of high level significant effect screening of each of the policies of the Ashford Local Plan 2030 to determine whether the Plan, either alone or in combination with other projects and plans, is likely to result in a significant adverse effect on European sites. With regard to in-combination effects, Section 3.4 of the HRA details which plans and projects are considered most relevant and which were therefore taken into account in the policy screening. In such screening assessment, with regard to the 61 Site Policies in the Plan, the Plan (paragraph 4.2) makes explicit that Policy ENV1, which provides protection for the integrity of European sites, applies to all site policies.

24. The HRA concludes that an adequate policy framework is contained within the Ashford local Plan 2030 to prevent a likely significant effect on European Sites, either alone or in combination with other plans and projects, and therefore that an Appropriate Assessment is not required.

iv)	<b>In preparing the Local Plan has the Council complied with its Statement of Community Involvement (GBD14)?</b>
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25. The complete consultation arrangements for the Local Plan are set out in the SD05 - Part 1 Consultation Statement Regulation 18 Stages, Part 2 Regulation 19 Consultation Statement and 'Main Changes' to Regulation 19 Local Plan 2030 Consultation Statement November 2017.
26. In particular, the overall compliance with the Statement of Community Involvement is dealt with in the Part 2 Regulation 19 Consultation statement that sets out in pages 4 – 17 the consultation that has been carried out during the whole preparation period of the Local Plan.

v)	<b>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?</b>
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27. Yes, the Council believes that the Local Plan sets a clear policy framework for the preparation of Neighbourhood Plans (NP) and effectively forms the strategic context to which all NPs in the borough should be prepared. This is specified within the introduction of the Local Plan (paragraphs 2.1 – 2.9) and the overall Vision for the borough (paragraphs 3.3 – 3.13) which provide certainty to Neighbourhood Planning Groups of the aims and status of the Local Plan and the need to be in general conformity with all policies within it, to meet their basic conditions test as set out in paragraph 184 of the NPPF.
28. The Council considers that this position set out in paragraph 2.8 is justified and will ensure that there is no ambiguity or risk of policy conflict in decision making terms or would lead to a lack of policy coverage where NPs may become out of date. It also enables NPs to focus on local issues, and allow them to expand on Local Plan policies in a local context, rather than replicate them unnecessarily. The Council believes this to be the most effective approach for the borough as a whole, and ensures a continuous and consistent approach to policy application, which will create a predictable and effective relationship between the Local Plan and all adopted neighbourhood plans.

29. Although not all site allocation policies would be considered strategic in the Local Plan context, it is the Council's position that these will be strategic in a neighbourhood plan context where they are located in a NP area. A site specific policy which is included within an adopted Local Plan but located within in a NP designated area, cannot be amended/deleted by a NP as it would have impacts on the ability to meet the overall housing numbers and would not be in accordance with strategic policies relating to the approach to housing and employment delivery across the borough, set out in policies SP2 –SP4. Therefore, the council considers that its reasoning that site allocation policies are strategic in the relevant NP context is justified.

30. In the case of four Neighbourhood Plan areas which were sufficiently advanced at the Regulation 19 stage of the Local Plan production, site allocations were not made in these locations where they were not considered strategic locations. In NP area's which were more recently designated, it was necessary for the Local Plan to make site allocations in those parishes. This position is detailed fully within paragraph 2.8.1 of the Submission Local Plan.
31. The topic policies contained within Chapter 5 of the Local Plan deal with a range of issues, many of which are specifically named strategic such as those in the transport section (TRA1 & 2). However, those which are not identified as strategic in the Local Plan context are designed to deal with borough-wide issues and support the delivery of the aims and objectives of the main Vision and Strategic Objectives set out in Chapter 3, and in particular Policy SP1. None of these topic related policies are considered to only relate to a specific local/neighbourhood area as they apply borough or area wide, and therefore the Council does not believe these topics should be treated as local, particularly where the NP coverage in the borough at present is low.
32. Paragraph 156 of the NPPF confirms that policies covering the range of topics included within Chapter 5 are considered to be strategic issues and should be included within Local Plans. Therefore the council considers it justified that that all local plan topic policies are 'strategic' in a NP context.
33. These policies being treated as strategic do not prevent NPs from expanding on the policy coverage with additional detail or criterion, or providing policy coverage for local issues such as specific design or new site allocations, as long as the 'general conformity' test is met.
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| vi) | <b>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?</b> |
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34. Paragraph 2.26 of the Local Plan sets out that a new Local Plan should be in place by 2025. This would require a formal review to have been undertaken by 2023 in order to ascertain the scope of any new Local Plan and then provide the Council with enough time to progress the Local Plan through its various stages. A formal review by 2023 falls within the 5-year regulatory requirement.
35. The Local Plan (para 2.26) also provides an element of flexibility to the approach when it sets out that should circumstances dictate, such as 'significant undersupply of housing' or the 'non-delivery of infrastructure' then an earlier formal review will be undertaken.
36. Based on the above, the Council do not believe that the timescale for a new Local Plan needs to be adjusted.
37. However, the Council do accept that an earlier review of the Plan will be needed should the current wording of the draft NPPF which refers to the need to update policies at least every five years and that Local Plans must keep pace with applicable local housing need figures (para 23) remain in place when it is adopted.