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**Report to Tandridge District Council**

**by Philip Lewis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Date: 14 February 2024

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

**Report on the Examination of the Tandridge District Council Our Local Plan:  
2033**

The Plan was submitted for examination on 18 January 2019

The examination hearings were held between 8 October and 28 November 2019

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This Report is accompanied by an annex within which I append several documents in which I set out post hearings advice.

## **Non-Technical Summary**

This report concludes that the Tandridge District Council Our Local Plan is not sound and as such I recommend non adoption of it.

## **Abbreviations used in this report:**

DPA	Dwellings per annum
DtC	Duty to Co-operate
GBA	Green Belt Assessment
GTAA	Gypsy and Traveller Accommodation Assessment 2017
HIF	Housing Infrastructure Fund
HMA	Housing Market Area
ILSS	Interim Local Strategic Statement for Surrey 2016 – 2031
LPA	Local Planning Authority
NPPF	National Planning Policy Framework 2012
OAN	Objectively assessed need
ONS	Office for National Statistics
PPG	Planning Practice Guidance
SDC	Sevenoaks District Council
SHMA	Strategic Housing Market Assessment
2004 Act	Planning and Compulsory Purchase Act 2004 (as amended)

## Introduction

1. This report contains my assessment of the Tandridge District Council Our Local Plan (the Plan) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2012 (paragraph 182) (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The NPPF was revised in July 2018, February 2019, July 2021, September 2023 and December 2023. It includes a transitional arrangement in paragraph 227 of the December 2023 NPPF which indicates that, for the purpose of examining this Plan, the policies in the 2012 NPPF will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised NPPF, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF and the versions of the PPG which were extant prior to the publication of the 2018 NPPF.
3. The starting point for the examination is the assumption that the Council submitted what it considers to be a sound plan. The Tandridge District Council Our Local Plan, submitted in January 2019, is the basis for my examination. It is the same document as was published for consultation in July 2018.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why this has not been possible.

## Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Local Plan Policies Map North 2018 (MD9), the Local Plan Policies Map South (MD10), Local Plan Policies Map Green Belt and Landscape Designations 2018 (MD11) Local Plan Policies Map Conservation Areas and Open Spaces Playing Pitches Biodiversity Opportunity Area 2018 (MD12), and Local Plan Policies Map Landscape Character Areas 2018 (MD13).

6. Given that I find the Plan unsound and recommend non adoption of it, the Council do not need to update the adopted policies map.

## **Context of the Plan**

7. The purpose of the submitted Plan is to update the development strategy for the District up to 2033. The Plan was intended to replace the Council's adopted Core Strategy and to supersede a number of the policies of the Local Plan Part 2 – Detailed Policies, which was adopted in 2014.
8. Tandridge is a predominantly rural district with two main built up areas, with clusters of development around Caterham in the north and Oxted south of the M25, along with two larger rural settlements; Lingfield and Smallfield, and a number of villages and smaller settlements. There are two National Landscapes (Areas of Outstanding Natural Beauty) in the District, Surrey Hills and High Weald. Around 94% of the land in the District falls within the Green Belt.

## **Public Sector Equality Duty**

9. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including provision of accommodation for Gypsies, Travellers and travelling showpeople, and specialist needs housing and extra care.

## **Assessment of Duty to Co-operate**

10. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A, the Duty to Co-operate (DtC), in relation to planning of sustainable development in respect of the Plan's preparation. The DtC requirements apply until the point a local plan is submitted for examination.
11. The Council prepared a development plan document and submitted it for examination. The submitted Plan seeks to address a number of strategic matters which include amongst other things, the provision of housing including for Gypsies, Travellers and travelling showpeople, the level and distribution of development, and the provision of infrastructure.
12. A local planning authority (LPA) must co-operate with prescribed bodies in maximising the effectiveness in the preparation of development plan documents so far as they relate to a strategic matter. A strategic matter includes amongst other things, the sustainable development or use of land that has or would have a significant impact on at least two planning areas. The duty requires the LPA to engage constructively, actively and on an ongoing basis in the preparation of development plan documents.

13. The Tandridge Local Plan Duty to Co-operate Framework Scoping Statement was published in December 2014 (SDTC15). The document identifies strategic matters to be dealt with under the DtC. It is clear from this document that at the outset of the preparation of the Plan, the Council sought to work with neighbours to prepare a joint Strategic Housing Market Assessment (SHMA). Only Sevenoaks District Council (SDC), considered that there may be a possibility of working on a joint SHMA, but this was not pursued as the housing market links between the Councils was considered to be tenuous. Other neighbouring authorities either felt that the housing market links were weak, or that the timing of the Tandridge SHMA did not fit with the preparation of their own SHMAs.
14. The DtC is not a duty to agree, and whilst other Councils did not agree to work with the Council on a joint SHMA, it is clear that the Council had sought to do so. I will consider the soundness of the Council's approach to defining the Housing Market Area (HMA) elsewhere. However, in DtC terms, the Council was faced with a pragmatic decision as to whether to progress the preparation of the SHMA alone, in the absence of any willing partners to prepare a joint study.
15. The Council has a clear history of working with DtC bodies through established mechanisms such as the East Surrey Local Plan Working Group and the Gatwick Diamond. There are clear outcomes from the DtC. These include the Council commissioning a Transport Model from Surrey County Council, an inter authority agreement with Wealden, Lewes, Mid Sussex, and Tunbridge Wells Councils and with SDC in regard to mitigation for the European designated Ashdown Forest and a shared methodology for the assessment of Gypsy and Traveller accommodation. In addition, the Council worked with a number of Councils to prepare the East Surrey Proposition in respect of economic growth and infrastructure projects and the Gatwick Diamond Local Strategic Statement. Furthermore, the Council is a signatory to the Interim Local Strategic Statement for Surrey (ILSS) 2016 – 2031 (SDTC10) which sets out common objectives and priorities for the County in the period to 2031.
16. The annual Duty to Cooperate Statement updates and Statements of Common Ground show that there had been ongoing meetings between the Council and its neighbours through the preparation of the Plan up to submission. Further evidence of cooperative working can be seen in the preparation of the ILSS. Engagement was clearly ongoing through the plan making period.
17. A key question in respect of the DtC discussed at the hearings is in regard to the issue of unmet housing need and whether there was any meaningful discussion between LPAs in working together to meet development requirements which cannot wholly be met within their own areas.

18. Firstly, it is clear that the Council had made its neighbours aware of the likelihood for unmet need for housing arising through the preparation of their local plan from an early point in its preparation. The DtC Statement Update 2015 (SDTC13) demonstrates that the Council had discussions with its neighbours regarding potential unmet housing need and DtC meetings in 2016 also included discussions of potential unmet need. Further discussions were had in 2017 (SDTC11) about the Tandridge housing strategy and likely unmet need and what help others could provide to meet the need. In 2018, the Council was in a position to outline the extent of unmet need that it considered would arise through their new local plan. There is evidence in the DtC Statement Update 2018 that the Council outlined its position to its neighbours.
19. Secondly, the statements of common ground signed with neighbouring authorities clearly explain that neighbours are unable to help the Council with unmet housing need arising in Tandridge. These statements are products of the DtC. This is due to a variety of reasons including lack of ability to accommodate a Council's own need, unmet need from another area already being met by neighbours and because of a number of Councils falling within different HMAs.
20. Consequently, there is evidence of ongoing and meaningful discussion between the Council and its neighbours regarding unmet need arising in Tandridge. Whilst it is clear that the Council submitted a local plan which would give rise to unmet need, it is also clear that its neighbours were not agreeable to help to accommodate it. Whilst the discussions appear meaningful and demonstrate cooperation, they were ultimately unsuccessful.
21. Also relevant is the wider Surrey context in respect of housing provision and unmet need. The ILSS published in December 2017 identified as a shared challenge that on the basis of evidence at that time, it appeared that Surrey was only likely to be able to meet approximately 50% to 75% of its objectively assessed housing needs over the next 15 years and that few adjoining authorities will be able to contribute to meeting any unmet needs of others (given the widespread issues with Councils meeting their own needs). The Council had by that point made its neighbours aware that they would potentially have unmet need. Document TED19 which was prepared at my request in October 2019 shows the Plan Making / Housing Provision Position in Tandridge Wider Housing Market Area at that point and illustrated the extent of unmet housing need across the area at the time of the hearings.
22. There is no clear evidence that any of the neighbouring authorities could take on unmet need from Tandridge, even if they were agreeable to do so and in terms of HMAs, it would be relevant and appropriate to do so. Taking these considerations together, I am therefore satisfied that the Council has cooperated with the DtC bodies in respect of unmet need. I am also satisfied



that it has cooperated with the DtC bodies effectively, especially given the circumstances.

23. I have been referred to the letter issued by the Inspector who examined the Sevenoaks Local Plan (TED25), within which she expressed her view that SDC had failed the DtC in the preparation of its local plan. In this examination, I am looking at whether Tandridge District Council has met the DtC, based upon the evidence before me. Furthermore, it is entirely possible that one Council could be found to fail the DtC, whilst its neighbour could meet it in the same round of plan making. In this case, it has to be acknowledged that Tandridge and Sevenoaks are in distinct HMAs to each other, and the housing market links between the two are weak.
24. Therefore, I am satisfied that the Council has engaged constructively with its neighbours in regard to unmet housing need and had done so from an early stage in the plan making process, making it clear that there was a prospect of there being unmet need arising through the Tandridge Local Plan and that the Council had worked with neighbours to see if unmet need could be met outside of Tandridge. Specifically, in respect of the DtC, the evidence before me is that the Council had been engaged with SDC in respect of housing and other strategic matters through the plan making process (SDTC-9, SDTC-11, SDTC-12, SDTC-13). This is clearly a different situation to that before the Sevenoaks Inspector.
25. In regard to the matter of a cross border strategic housing allocation, it is clear that the Council and SDC had discussions about a potential Garden Community development at Edenbridge under the DtC (SDTC-11 paras 4.7 to 4.13). Indeed, the Council also had discussions with Reigate and Banstead Council regarding a potential Garden Community at Redhill Aerodrome. SDTC-11 is clear that the Council was considering a possible allocation of land at Edenbridge, alongside a strategic allocation in the Sevenoaks Local Plan. At that point however, the Council was aware that SDC was unlikely to include such an allocation in its draft Local Plan, but nevertheless, gave the scheme consideration. The evidence is also clear that the Council had considered a joint approach to plan making, in stating that if the site is selected as a preferred location, it would seek agreement to progress joint work on an Area Action Plan with SDC (SDTC-11 table 6 point 8 on page 21). Consequently, I consider that the Council has complied with S33A(6) of the 2004 Act in this regard.
26. To conclude on this matter, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

27. The other matters of legal compliance were discussed at the hearings. Following the hearings and after considering the written submissions and other evidence, I am of the view that further work in respect of the sustainability appraisal and Habitats Regulations Assessment could have been undertaken as necessary in respect of any proposed main modifications at the appropriate time. Similarly, I would expect that the Local Development Scheme would be updated further. For the reasons given below, I find the Plan to be unsound and incapable of modification to make it sound. In respect of the 2004 Act requirements relating to policies which either address the area's strategic priorities, or those which would contribute to the mitigation of, and adaptation to, climate change, the submitted Plan included such policies. However, I have found the Plan unsound and those policies would not be adopted.
28. I consider the consultation carried out by the Council in respect of the preparation of the Plan was undertaken consistent with the Council's adopted Statement of Community Involvement.

## Assessment of Soundness

### Background

29. This report sets out why the submitted Tandridge District Council Our Local Plan is not sound and is incapable of adoption. Despite the Plan being submitted in January 2019, with hearings being held in October and November of that year, there are still very significant outstanding issues around its soundness, which have not been resolved and I do not have the up-to-date evidence necessary to determine how it may be modified to make it sound. To provide context, I explain in the following paragraphs the key events in the examination after the hearings.
30. In March 2020, a decision was made by the then Ministry of Housing, Communities and Local Government to reject the funding bid made by Surrey County Council on behalf of the Council to the Housing Infrastructure Fund (HIF) Forward Funding: Unlocking Strategic Development Sites (HIF/FF/577) to help deliver improvements to Junction 6 of the M25 and the A22/A264 Felbridge junction.
31. The Statement of Common Ground with Highways England (now National Highways) (SDTCE23) is clear that the impacts of the development proposed through the Plan as a whole on the Strategic Route Network would be in terms of the NPPF 'severe' (NPPF32). It was the view of National Highways that mitigation is required at Junction 6 of the M25 by 2024/25, unless a later date is justified. This strategic infrastructure was considered necessary by National Highways prior to any delivery of dwellings at the proposed South Godstone Garden Community (Policy SGC01). I have not been convinced otherwise, and in such circumstances the NPPF states that development should be prevented.
32. It is clear from the evidence, including INF1 - Tandridge District Infrastructure Delivery Plan 2019 and INF2 - Tandridge District South Godstone Garden Community Financial Viability Assessment 2018, that a successful HIF Funding bid was an important assumption in the delivery of the strategy of the Plan, and in particular the proposed South Godstone Garden Community. This is because it was intended that it would enable the required infrastructure to be provided in sufficient time for the proposed development to be implemented in the plan period. I wrote to the Council in April 2020 seeking their comments on the implications of the HIF Bid decision (ID12). The Council responded in documents TED37, TED38 and TED38A. It was apparent from these responses that further work was needed to clarify when the necessary mitigation would be required at Junction 6, to revisit local plan viability assumptions, and for further modelling of the strategic and local highway networks. This work was expected to be completed by October 2021. At this time, the country was in the grip of the Covid 19 pandemic.

33. In June 2020 I wrote to the Council (ID13) to explain my view that in the absence of the HIF Funding and the early provision of the required transport infrastructure mitigation this would have provided, it is unclear as to how much new development, if any, could come forward in Tandridge before 'severe' conditions would occur at Junction 6 of the M25, or indeed other places in the transport network. I expressed my concern that it is unclear as to how the necessary transport infrastructure improvements would now be funded, particularly given the statements contained in TED24 and that the Infrastructure Delivery Plan had effectively been rendered out of date by the HIF Funding decision. I also raised my concerns that in this context whether the proposed allocations in the Plan could be considered to be deliverable or developable in terms of footnotes 11 and 12 of the NPPF. I invited the Council to prepare a Statement of Common Ground, setting out what I wished it to cover, with National Highways and Surrey County Council to enable me to determine how the examination should proceed.
34. In July 2020 I wrote to the Council following the publication by the Office for National Statistics (ONS) of the 2018-based Household Projections, seeking their views on the implications of these for the examination. The Council responded in TED42 in November 2020 and I return to this in Issue 1. I also wrote to the Council in July 2020 regarding the implications of the Amendments to the Use Classes Order for the Plan. The Council replied in October 2020 in TED41.
35. In December 2020 I wrote to the Council setting out my preliminary conclusions and advice following the hearings (ID16 reproduced as Annex 1). I acknowledged in my letter that the Council had not been able to answer my questions regarding the implications of the HIF Funding Bid decision for the Plan in full, and that at that point agreement of a methodology for further transport modelling was still some time away. But nevertheless, rather than perpetuate any greater delay in the examination and uncertainty amongst representors and other interested parties, I had decided to issue the letter at that point to provide an indication of my thoughts on a number of key issues and to set out options for what may happen next. ID16 was written in the context of the available evidence before me at that time, which I go on to explain has, in a number of respects, become outdated since.
36. I gave the Council the options of either pausing the examination to attempt to resolve the issue of the provision of strategic infrastructure, the OAN, housing requirement and supply, including the Garden Community proposal and provision for Gypsies and Travellers to an agreed timescale, or to withdraw the Plan. The Council in TED43 (February 2021) replied that it would like to carry out some further work before providing a response to these options. I shall return to the issues raised in my initial findings.

37. In February 2021 I replied to the Council agreeing to their suggestion of a period of three months within which the Council would complete the necessary work required to respond to my letter of 14 June 2020 (ID17), but reminded them of the then recent Statement by the Minister of State for Housing, Mr Christopher Pincher, on 19 January in which he has emphasised the need to meet the Governments deadline of December 2023 for all authorities to have up to date local plans in place. I invited the Council to provide a clear programme for the work, setting out clear milestones which would culminate in the Council's decision as to whether it wished to continue with the examination of the submitted plan, or withdraw it. The Council provided a work programme in TED44, with the required work to be completed in May 2021. The Council wrote to me in May 2021 to explain that they were one month behind schedule.
  
38. In June 2021 I wrote to the Council requesting regular monthly updates on progress to be published on the examination website, to keep representors and other interested parties informed (ID18). The Council responded later that month explaining that it should be able to provide me with its response to my two options by the end of August. In August 2021 the Council wrote to me (TED48) to explain that the traffic modelling would not be ready until November 2021 at the earliest, and that there were some doubts about whether the upgrades to Junction 6 would accommodate all Local Plan growth, and that a more substantial upgrade to the junction may be required. In that letter they suggested an alternative option for amendments to the Plan so that it covered the period 2013 – 2027.
  
39. In September 2021 I wrote to the Council with my response (ID19). I explained that given the new concerns expressed about the effectiveness of the Junction 6 improvements proposed in terms of capacity, there is a high risk that the Plan as submitted is not capable of being altered by way of main modifications so that it may be found sound without considerable work and within a reasonable timeframe. I also set out that in my view the Council's alternative option would require changes such that it would require the virtual rewriting of the Plan and that the most effective and transparent way to do this would be through the preparation of a new plan, based on a robust sustainability appraisal, in consultation with the local community and interested parties, rather than emerging as my recommendations in main modifications. I expressed my view that withdrawal of the Plan from examination was looking like the most appropriate option given the circumstances.
  
40. The Council wrote to me in November 2021 explaining that it intended to provide a formal response to ID19 in January 2022. I received TED50 and TED 51 from the Council in January 2022 setting out the results of the study of the capacity of Junction 6 of the M25 and the options for the next steps for the Plan the Council were to consider.

41. I wrote to the Council in February 2022 setting out issues on which I needed to reach a conclusion to determine whether and/or how the examination should progress thereafter (ID20 reproduced in Annex 2), also setting out new or updated evidence that I considered to be required at that time. The Council acknowledged that in TED54. In ID21 March 2022 reproduced in Annex 3, I set out a list of evidence base documents which I considered should be reviewed and updated as necessary given the passage of time since their preparation.
42. In TED55 April 2022 the Council set out its suggested work programme for progressing the examination. The Council provided an updated Local Development Scheme in June 2022.
43. On 28 July 2022 the Secretary of State for Levelling up, Housing and Communities issued a letter stating that Inspectors should not send letters or reports which conclude that local plans are unsound and incapable of being made so and/or which advise councils that local plans should be withdrawn for a period of transition before a new Prime Minister takes Office. This letter also set out an expectation that examinations and hearings would continue, and that the Planning Inspectorate should continue to show flexibility and pragmatism during examination to fix deficiencies on plans that might otherwise have been found unsound or be recommended for withdrawal from examination. On 6 March 2023 a letter was sent by the Chief Planner at the Department for Levelling Up, Housing and Communities lifting the instruction regarding reports and letters around unsoundness. This letter also set out the expectation that Inspectors act pragmatically.
44. The Council provided updates as to the progress with its programme of work in June, July and August 2022 (TED56, a and b). However, by August 2022, very little progress had been reported. This was followed by the Council resolving at its meeting of 22 September 2022 not to proceed with commissioning or undertaking further work for the time-being on the emerging Local Plan (TED57), due to factors including uncertainty in the future direction of the local plans system.
45. In March 2023 the Council wrote to me (TED58) setting out a proposal to have a local plan in place by the end of 2024. I replied in May 2023 (ID23 delayed due to the period of sensitivity for the local elections) setting out my intention to hold a procedural meeting to discuss options for the examination. The Council response was received in TED59 in June 2023. I replied in ID24 in June 2023 reiterating the need for a procedural meeting and my thoughts on the protracted examination.
46. The procedural meeting was held on 26 July 2023, prior to which the Council had in TED61 set out its view on how the examination could be progressed. At

the meeting the procedural implications of the Council's suggestions were discussed.

47. In ID26 (included as Annex 4) following the Procedural Meeting I wrote to the Council setting out my view that despite the length of this protracted examination, the significant soundness concerns that I had identified in my post hearings advice letter of December 2020 appear no nearer to being resolved. In such circumstances, I should find the Plan unsound, and that it is not possible to make it sound by making main modifications to it, and that I should recommend non-adoption of the Plan. I set out that the next stage is therefore for me to write my report of the examination within which I would recommend that the Plan is unsound and that it is not adopted, and that that would bring the examination to a close. The Council resolved at its meeting on 21 September 2023 that it wanted me to write a report concluding the Plan is unsound and not therefore capable of adoption. Consequently, this report has been prepared.

## Summary

48. The examination has been underway for around five years. The issues I set out in my preliminary conclusions and advice (ID16) of December 2020 have not been addressed, despite what has in effect been a very prolonged pause in the examination, during which I have exercised pragmatism, and flexibility. The work programme provided by the Council in TED55 of April 2022 has not been followed. I turn now to specific soundness concerns in my main issue.

## Main Issue

49. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified one main issue upon which the soundness of this plan depends. This report deals with that main issue. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

## **Issue 1 – Whether the Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area?**

### **The evidence base**

50. The Procedure Guide for Local Plan Examinations states:

'1.12. Evidence base documents, especially those relating to development needs and land availability, that date from two or more years before the

submission date may be at risk of having been overtaken by events, particularly as they may rely on data that is even older. As a minimum, any such documents should be updated as necessary to incorporate the most recent available information. But this may not be necessary for evidence documents on topics that are less subject to change over time, such as landscape character assessments'.

51. At the time of the hearings, I had no significant concerns around the currency of the evidence before me. However, some four years later, it is clear that much of the evidence base has become out of date. As explained above, I had requested updated evidence on a number of occasions. It has not been received. Since ID21 was issued in March 2022, almost 2 years have passed, and in this time, much of the evidence base has become increasingly outdated.
52. By way of one example, the latest detailed housing land supply evidence before me is set out in TED14, dated October 2019. This is based on housing land supply data up to the year 2018/19. The up-to-date evidence I would expect would be for the year 2022/23, given that we are three quarters of the way through the year 2023/24.
53. In ID16 (December 2020), I said to the Council that; 'In order for me to reach a view on whether the Plan would provide for a five-year supply of deliverable housing sites on adoption, and a supply of specific developable sites or broad locations for growth for years 6 to 10, I need up to date information on the components of housing land supply. The Council's latest Annual Monitoring Report should be added to the Examination Library'.
54. In ID21 (March 2022), I wrote to the Council listing the evidence base documents which I considered should be reviewed and updated as necessary having regard to their subject matter, age and the changes in circumstances since the Plan was submitted. The list of updated evidence required included housing land supply calculations and the housing trajectory.
55. Despite my formal requests for wide ranging updating of the evidence and the long pause in the examination during which it could have been provided, it has not been received. As a result, I cannot determine whether the Plan would be consistent with NPPF47 regarding to housing land supply given that completions to date and current housing land supply are important components of this.
56. I turn now to specific implications of this lack of a proportionate evidence base which is adequate, up-to-date and relevant, on my consideration of the principal unresolved issues in the examination.



## Provision for housing

57. In terms of evidential requirements, NPPF 159 includes that local planning authorities should have a clear understanding of housing needs in their area. It also sets out that they should prepare a SHMA and a Strategic Housing Land Availability Assessment.
58. The submitted version of the Plan sets out an objectively assessed need (OAN) for Tandridge of 9,400 housing units over the plan period 2013 – 2033, or 470 new homes per annum. The OAN was calculated on the basis of the 2014 based household projections. The ONS published 2016-based household projections in September 2018. The Council subsequently prepared the document 'Updating the Objectively Assessed Housing Needs of Tandridge' (HNS5) which recalculates the OAN using the 2016-based figures. Prior to the examination hearings, I wrote to the Council seeking clarification as to whether it intended to propose through the hearings that the OAN should be derived using the 2016 based projections and invited the Council to update its SHMA as necessary. The Council confirmed that it considered that the OAN should be derived using the 2016 based projections and provided an updated SHMA (HNS23E).

### The housing market area

59. Paragraph 47 of the NPPF sets out that LPAs should use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in the HMA, as far as is consistent with the policies set out in the NPPF. The PPG states that LPAs should assess their development needs working with the other local authorities in the relevant HMA or functional economic market area in line with the DtC.
60. The Council's evidence states that Tandridge is a functional component of a HMA which includes the London Borough of Croydon, Reigate and Banstead and Mid Sussex (HNS13). In addition, there is evidence of more limited links with other neighbouring authorities. However, whilst the Council did seek to prepare a joint SHMA, it was unsuccessful in doing so as I have set out above. The Council has prepared a SHMA based on the Tandridge District area and the OAN has been calculated on this basis, as part of a sub-regional HMA.
61. A standalone HMA, broadly defined on the basis of the Tandridge District area alone, would not be justified through applying the sources of information set out in the PPG. The relationships in terms of the various factors such as travel to work patterns, household migration and house prices, are complex, multi-layered, overlapping and at times the different elements appear contradictory. Furthermore, Tandridge does not have a significant urban settlement, having a polycentric settlement pattern and has a number of significant settlements close to its boundaries, which exert influence upon it.

62. Unsurprisingly perhaps, given the nature of potential HMA relationships for Tandridge, neighbouring authorities have prepared their local plans on the basis of HMAs which do not include Tandridge. Those adopted plans have been examined and found sound on that basis. Figure 6.3 of HNS13 shows the HMAs adjoining Tandridge. Of the more significant relationships identified in the Council's evidence, the London Borough of Croydon has an adopted local plan for the period to 2036 and is part of the single London HMA. Its SHMA was prepared for the Borough only. Reigate and Banstead Borough is within the East Surrey HMA and the Council reviewed its Core Strategy in accordance with Regulation 10A of the Town and Country Planning (England) Regulations 2012, concluding that the policies of that plan did not require updating. Mid Sussex Borough has an adopted local plan for the period to 2031 and is within the Northern West Sussex HMA, with Crawley and Horsham Councils.
63. It is clear from the evidence, that Tandridge has housing market relationships with its neighbours, and that there is in effect, overlap of neighbouring HMAs across the District. There is not support however for the District falling within a particular HMA with any of its neighbours and in practical terms, given plan making activities of neighbouring authorities, the Council had little choice but to prepare its SHMA for Tandridge alone. Whilst this is inconsistent with the guidance set out in the PPG, it was a reasonable and pragmatic thing to do in the circumstances.

### **Use of the ONS Household Projections**

64. The PPG is clear that the starting point in establishing the need for housing is the household projections and that, wherever possible, the local needs assessment should be informed by the latest information. At the time of the hearings, the latest information was set out by the 2016 based projections released by the ONS. As already mentioned, 2018 based Household Projections were later published in 2020. The PPG sets out that the household projection based estimates of housing need may require adjustment to reflect factors which are not captured in past trends.
65. On 20 February 2019 the Government updated the PPG to advise of the use of the 2014-based household projections when using the standard method for calculating local housing need. However, as a transitional plan being examined under the NPPF 2012, the housing requirement for Tandridge is not derived from the standard method. In principle, the use of the latest household projections would be consistent with guidance in the PPG and appropriate for a plan being examined under the transitional provisions.
66. In the submitted Plan, the Council calculated the OAN to be 470 dwellings per annum (dpa) based upon the 2014 based household projections.

Subsequently, it has updated its SHMA using the 2016 based figures which produced an OAN of 398 dpa.

67. At the hearings, some discussion was had around the applicability of the 2016 based projections as a demographic basis for assessing housing need and I set out my conclusions on that in my preliminary conclusions and advice following the hearings (ID16). This is that the OAN using the 2016 based projections and the adjustments in respect of midyear estimates, allowance for empty and second homes, 10-year migration, household formation and market signals should be in the region of 450 to 495. The OAN set out in the submitted Plan falls within this range. I asked the Council to recalculate the OAN based on my conclusions, but I was not provided with an amended figure.
68. The Council consider that the 2018 based household projections have justified a 'meaningful change' in terms of the PPG (TED42), and that the updated objectively assessed need figure should be 266 dpa. However, given the lack of progress in the examination, especially that there have been no further hearings and opportunities for representors to provide further evidence and statements, I have not been able to test that proposition.

### **The plan period**

69. NPPF47 includes that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer, and identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15.
70. The submitted Plan covers the years 2013/14 to 2032/33. More than half of the plan period has passed. Even if it were possible to achieve an adopted plan in the year 2024/25, at best there would be a remaining plan period considerably below the expectations set out in NPPF47. Any extensions to the plan period would require to be supported by up-to-date evidence, with implications for the soundness of the proposed spatial strategy assessed. Such evidence has not been provided.

### **Housing land supply**

71. As discussed above, the housing land supply evidence before the examination is out of date, there are unresolved objections to proposed allocations, and given the time left in the plan period, it would not be possible to identify developable sites or broad locations for years 6-10 as required by NPPF47.

## **The housing requirement**

72. Policy TLP01: Spatial Strategy sets a housing requirement for 6,056 homes within the Plan period to 2033, equivalent to 303 dpa. The Council argue in its Housing Hearings Statement (TED04) that the proposed housing requirement, with due regard to other important national policies and on consideration of the NPPF as a whole (through the application of the presumption in favour of sustainable development in NPPF14), comes close to what they set out at the hearings as the demographic OAN.
73. The proposed housing requirement of 6,056 dwellings is derived from the Council's assessment of the potential housing land supply (Regulation 19 Housing Topic Paper HNS6). Individual components include existing supply (permissions and completions), proposed allocations; New Urban Settlement Sites and New Semi-Rural Service Settlement Sites, the South Godstone Garden Community; Windfall; Town Centre Initiatives and 'other supply'.
74. As I have already described, the out-of-date housing land supply evidence means that the figure of 2,334 dwellings for existing supply in Policy TLP01: Spatial Strategy is not justified. I do not have up-to-date evidence to establish what the latest committed supply is.
75. In respect of the proposed allocations, in ID16 I asked the Council to provide further evidence in respect of HSG02: Chapel Road and HSG04: Woodlands Garage, Chapel Road, Smallfield as both sites fall within Flood Zone 3B (the functional floodplain) and the evidence before me was insufficient to demonstrate that both elements of the Exception Test (NPPF102) have been passed. I also requested further evidence regarding HSG06: Land off Salmons Lane West, Caterham and HSG12: Land at the Old Cottage, Station Road, Lingfield in respect of the effect of the proposals on designated heritage assets. I have not received the requested information and therefore continue to consider these allocations unjustified.
76. Given that the purpose of this report is to set out why the Plan is unsound and incapable of adoption, that the evidence base is out of date and there remain unresolved matters such as education provision and site specific exceptional circumstances for altering Green Belt boundaries, I am not in a position to comment further on the other proposed allocations of the Plan. To do so could unnecessarily fetter future decision makers in respect of those sites.
77. As I have already explained, transportation issues around the proposed South Godstone Garden Community, and indeed around the deliverability of the development proposed in the Plan, are unresolved. Whilst the Council provided the results of the study of the capacity of Junction 6 of the M25 in January 2022, it has not subsequently provided the additional evidence I requested, nor has

the examination proceeded as I envisaged. Instead, the examination has stagnated.

78. In this context given the lack of evidence and progress of the examination, I must find that Policy SGC01: South Godstone Garden Community is not justified, effective nor consistent with national policy. This is because it has not been demonstrated that the proposed scheme is either deliverable or developable in terms of the NPPF, nor that it could go ahead without residual cumulative impacts of development on the transport network being severe. The lack of up-to-date evidence prevents assessment of the implications of an extended plan period for the Garden Community proposal. Consequently, there are not exceptional circumstances to alter the Green Belt boundaries for the proposed allocation. Given these fundamental matters, I will not consider its detailed merits further. Furthermore, as the Garden Community Proposal is unsound, it brings into question the soundness of the spatial strategy as a whole, as it is so significant to it.
79. In terms of windfall, the allowance to 2033 should be lower than that set out in Policy TLP01, as it would be applied over fewer years, with windfall housing provided in the plan period to date already included within completions or commitments. In regard to town centre initiatives and other sources of housing land supply, I set out in ID16 (included as Annex 1) why I do not accept the figures put forward as being justified.

### **Summary**

80. I cannot establish the OAN and the housing requirement is not justified either because this is based on supply which is uncertain/out of date. Therefore, Policy TLP01: Spatial Strategy which sets out housing delivery target of 6,056 dwellings (303 dpa) is not justified, effective, consistent with national planning policy or positively prepared.

### **Meeting the business and employment needs of the area**

81. Consistent with the NPPF, the Council had undertaken assessments of the business needs within the economic markets operating in and across their area, working cooperatively with neighbours. In broad terms, it indicated that Tandridge is an area with significant out commuting, with only about 28.4% of the District's working population working within the District. A substantial proportion of Tandridge's economically active population travel to the large employment centres close to the District boundary such as Croydon and Gatwick, or into London.
82. The office space market was found to be localised, and Tandridge influenced by provision in larger settlements such as Croydon and Crawley, which had seen

considerable levels of new build office development. Tandridge, like the wider economic area had lost about 7% of office space to housing through the exercise of permitted development rights, whilst the rate of industrial land loss has been higher than that of the wider economic area. In respect of office premises, Tandridge had experienced moderate vacancy rates at around 15% vacancy in 2017, whilst industrial floorspace vacancy stood at about 4%. These figures reflect the position prior to the submission of the Plan and are not up-to-date.

83. The Council used a jobs forecast by Experian, which shows a growth rate of 0.7% per annum, which is conservative when considered against the growth rate for the District between 1997 and 2016, to generate the minimum net employment land requirement for the Plan of 15.3 hectares. Alternative modelling scenarios have been considered based on the past trends in actual completions of employment development which provides a forecast figure of 4.8 hectares and a growth scenario based on past trends of growth in key sectors and local growth priorities and opportunities, identifying an overall employment land requirement of 22.5 hectares.
84. No compelling evidence had been provided that the minimum level of employment land provision should be set above that forecast using the Experian data. Whilst the Council has not modelled alternative forecasts to that of Experian, it had nevertheless considered several scenarios, which represent an appropriate range of alternatives. The assessment of the existing employment land supply showed that in quantitative terms, there was sufficient land available overall to meet the baseline scenario, but that the existing supply is unlikely to meet the qualitative needs for all types of development over the plan period.
85. However, the employment land forecasts were based on what is now old data which has not been refreshed, and were undertaken before the UK left the European Union, and the Covid 19 pandemic, the effects of which in as far as employment land need in Tandridge is concerned, have not been considered. I do not have up-to-date evidence on employment land availability, or that lost to other uses. In these terms, the Plan would be inconsistent with NPPF58 insofar as it expects policies to be based on adequate, up-to-date and relevant evidence about the economic characteristics and prospects of the area that take full account of relevant market and economic signals.
86. Consequently, due to a lack of up-to-date evidence, the Plan's approach to meeting the business and employment needs of the area is not sound, and I do not have the evidence to inform me how it could be made so by main modifications.

## **The Green Belt**

87. The NPPF in paragraph 79 is clear that the Government attaches great importance to Green Belts. Tandridge sits within the Metropolitan Green Belt, with about 94% of the plan area being included within the Green Belt. Settlement boundaries are drawn tightly around the settlements inset from the Green Belt, which accounts for the 6% or so of the area which is not in the Green Belt.
88. The NPPF in paragraph 83 states that once established, Green Belt boundaries should only be altered in exceptional circumstances, through the review or preparation of the Local Plan. The NPPF does not define 'exceptional circumstances', and it is therefore a matter of planning judgement as to whether there are exceptional circumstances to alter the boundaries of the Green Belt in Tandridge. The NPPF in paragraph 84 also states that when drawing up or reviewing Green Belt boundaries, local planning authorities should take account of the need to promote sustainable patterns of development. Furthermore, LPAs should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.
89. At this point I shall consider the in-principle decision by the Council that a review of the Green Belt boundary was necessary. In considering whether the Plan is sound in principle, seeking to release the land from the Green Belt through the proposed Garden Community and allocations, I have regard to the judgement of Mr Justice Jay in *Calverton PC v Nottingham CC* [2015] EWHC 1078 (Admin).

### **Acuteness/intensity of the OAN**

90. I have not been able to reach a conclusion on the OAN for Tandridge. However, even if the Council is right about the 2018 household projections, the OAN is considerably higher than the housing requirement set out in the Tandridge Core Strategy of 125 dwellings per annum (based on the former South East Plan). The actual completions calculated to 2019 were in excess of double that minimum annual requirement. However, the lower end of a possible OAN for this Plan is for a level of housing need (266 dpa) considerably in excess of previous planned levels as reflected in the adopted housing requirement. This represents a significant need for housing in Tandridge. Whilst I do not conflate housing need and requirement, this is nevertheless a significant consideration.
91. The Council also identified a need for a minimum of 15.3 hectares of employment land in the district, as an important element of achieving sustainable development. I shall return to this.

### **Constraints of supply/availability of land for sustainable development**

92. The Council's Housing Economic Land Availability Assessment Interim Report (SAD1) January 2019 found the sites considered either deliverable or developable, along with a windfall allowance, were capable of delivering 22,087 dwellings in the plan period. The assessment was undertaken on a 'policy off' basis in respect of the Green Belt, making no recommendations about alterations to Green Belt boundaries. Consequently, there was a supply of suitable sites available to potentially meet the OAN in full, before regard would be had as to whether there are specific policies in the NPPF, such as the Green Belt, which indicate development should be restricted (NPPF14). SAD1 is however around five years old and given its age no longer provides the realistic assumptions on housing land availability and likely economic viability that the NPPF expects.

### **Whether sustainable development can be achieved without impinging on the Green Belt?**

93. In the preparation of the Plan, the Council had taken into account the difficulties in achieving sustainable development without impinging on the Green Belt. The Council in the 2015 Spatial Approaches Topic Paper (SPS4) examined different spatial approaches which included two approaches to development within the existing urban areas inset from the Green Belt. The maximum potential identified was 2,336 additional dwellings, giving a total of 3,403 dwellings (including those already built and commitments) and 3.2 hectares of employment land (SPS4). I am satisfied that all realistic alternatives were considered at that time. This maximum total which includes high development density assumptions, appears significantly below what would be needed to achieve the OAN, even using the figures (untested) suggested by the Council based on the 2018 household projections which would be 5,320 dwellings for the plan period. Given that many of the sites in the inset urban areas would be small, there would be limited scope from these sites to address affordable housing need, which the SHMA found to be 330 dpa (Housing Topic Paper HNS2).
94. Consequently, it would be very difficult to achieve sustainable development as defined by the NPPF, to include amongst other things, providing the supply of housing required or widening the choice of high-quality homes, without impinging on the Green Belt. In this context, the decision of the Council to review the Green Belt boundaries through the preparation of the Plan was justified and demonstrates that they positively sought opportunities to meet the development needs of the area and boost significantly the supply of housing.

### **Green Belt Assessment**

95. The Council has undertaken a Green Belt Assessment (GBA) in 3 parts. The GBA Part 1 (GB6) considered the whole of the Green Belt and makes



recommendations where identified areas should be considered in more detailed assessments. It considers the historic context to the Green Belt and how it has changed over time. It also examines the Green Belt at a strategic level, identifying three strategic Green Belt character areas in respect of Green Belt purposes. The District was also divided into a number of parcels, each of which was assessed against the Green Belt purposes, considered the relationship of settlements with the Green Belt and made recommendations as to which parts of the GB serve a critical purpose, or should be considered in more detailed assessments.

96. There are clearly a number of ways in which the GBA could have been undertaken. Nevertheless, the approach taken to defining the Strategic Green Belt Areas in the GBA is a reasonable one. In addition, the identification of the individual parcels for assessment was also undertaken on a reasonable basis, using defined areas with clear boundaries.
97. The assessments were made against the purposes of the Green Belt as set out in paragraph 80 of the NPPF, except for the purpose to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The Council has in effect taken into account land within urban areas that could be developed in the Spatial Approaches Topic Paper in considering its approaches to delivery and all land in the Green Belt is effectively achieving this purpose to the same extent. It should therefore be scored in the same way. Consequently, the Council's approach of not specifically considering this purpose in the assessments is reasonable.
98. The Metropolitan Green Belt is primarily concerned with London, but it is reasonable for the GBA to consider within the purpose to check the unrestricted sprawl of large built-up areas, those areas in Tandridge which are inset from the Green Belt, in addition to larger settlements in neighbouring areas near to the District boundary. A number of settlements which are washed over by the Green Belt are considered for the purposes of the assessment as being large built-up areas and given the nature of the settlement pattern of the District, this is appropriate. The Green Belt Parcel Assessment report (GB10) provides adequate explanation of how particular settlements are treated.
99. With regard to the other Green Belt purposes, in terms of preventing neighbouring towns from merging into one another, the assessment considers a range of settlements; those inset from the Green Belt, defined villages and other settlements, which is reasonable and justified given the settlement pattern of the District. Whilst the GBA methodology acknowledges that the purpose to preserve the setting and special character of historic towns is unlikely to apply to Tandridge on the same scale as some historic towns, the District does have areas with special historic character, primarily those designated as conservation areas and this is a reasonable approach in the Part 1 assessment. The

approach taken to the purpose to assist in safeguarding the countryside from encroachment is also reasonable.

100. The Part 2 assessment consists of detailed assessments of areas identified for further investigation in Part 1 and identifies areas and settlements for consideration in the Part 3 assessment or for in-setting. In the Part 3 assessment, the sites which were assessed under Part 2 to be considered in more depth were assessed to see if there were exceptional circumstances for their release from the Green Belt.
101. I am satisfied that the GBA was undertaken on the basis of a clear methodology consistent with national planning policy for protecting Green Belts and that in principle, the proposed alterations to the Green Belt boundaries had taken into account the need to promote sustainable patterns of development and are consistent with the proposed Local Plan strategy. However, given the passage of time, I acknowledge that some circumstances relating to specific sites may have changed and that the GBA may not be fully up to date.

### **Employment land**

102. I have already concluded that I am unable to determine whether the Plan adequately meets the business and employment needs of the plan area. Consequently, it follows that I am unable to reach a conclusion on whether there are exceptional circumstances at a strategic level for altering the boundaries of the Green Belt to accommodate new employment land provision.
103. In ID16 I set out that I was minded to conclude that in respect of Policy SES04: Westerham Road Industrial Estate, Tatsfield, there are exceptional circumstances to alter the Green Belt boundaries for the reasons set out in the GBA, principally that the site does not serve Green Belt purposes. However, I raised soundness concerns about landscape impacts, particularly regarding the Surrey Hills National Landscape. I am not in a position to make recommendations in respect of Policy SES04 to address these soundness concerns for the reasons set out above.
104. Given the need for housing and other development and the inability for the Council to meet future housing needs in non-Green Belt locations, the Council was justified in principle in reviewing the boundaries of the Green Belt to meet development needs for the submitted Plan. The GBA has been undertaken on the basis of an appropriate methodology and is adequate, albeit it is now dated as the level 3 assessment for example dates from June 2018, and I do not have up to date evidence which demonstrates that the GBA conclusions remain valid. Consequently, I cannot find exceptional circumstances because the needs for housing and employment land have not been justified and there are unresolved objections to sites in the Plan and their necessary level of supporting infrastructure. Combined with when the GBA was undertaken, the lack of up-to-

date evidence means that I am not in a position to conclude that exceptional circumstances exist to justify altering Green Belt boundaries. Therefore, in conclusion there are no exceptional circumstances demonstrated to alter the boundaries of the Green Belt and the Plan is unsound.

## **The accommodation needs of Gypsies, Travellers and travelling showpeople**

105. In ID16 I set out my view that the approach in the Plan to meeting the needs of Gypsies and Travellers does not accord with national policy as set out in the Planning Policy for Traveller Sites<sup>1</sup>. This is because the Plan does not adequately address the need for further pitches as identified through the Gypsy and Traveller Accommodation Assessment (GTAA) 2017. In particular, this was through its approach to those people for whom it was not possible to determine their travelling status, and in not addressing the needs of those Travellers who identify as cultural travellers in terms of the Equality Act 2010.
106. Romany Gypsies and Irish Travellers for example, are ethnic minorities and thus have the protected characteristic of race under s149(7) of the Equality Act. I stated that 'These matters can be addressed through the level of need being reassessed and through the Plan identifying a supply of specific deliverable and where necessary developable sites sufficient to meet the identified need'. I acknowledged that the Council had undertaken some work after the hearings in this regard. However, that work has not been progressed sufficiently to a point where I could be satisfied that it has addressed my concerns.
107. The GTAA is dated January 2017, and is based upon baseline survey data from 2016. At the time of the hearings in 2019, the Council acknowledged changes in the supply of Gypsy and Traveller pitches since the GTAA was prepared. Given the passage of time since the GTAA was undertaken, I have serious doubts about the applicability and robustness of the survey of needs which is now at least seven years old, and do not have an up-to-date picture of the current supply of pitches and sites. Furthermore, I am also unclear as to what the implications would be of the High Court judgement *Smith & Others v SSHCLG & NW Leicestershire DC* [2021] EWHC 1650 (Admin) for the Plan. The Plan as submitted is therefore not sound in this regard and I do not have the evidence needed to enable me to recommend main modifications to make it so.

## **Other matters**

108. At the hearings, a number of development management policies were discussed and possible main modifications to some of them were noted.

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<sup>1</sup> Since updated on 19 December 2023. Following the judgment in the Court of Appeal in the case of *Smith v SSLUHC & Ors*, the Government is reverting the definition of Gypsies and Travellers used in the Planning Policy for Travellers Sites to that adopted in 2012.

Subsequently, I set out in ID16 my responses in respect of a number of development management policies which I felt I needed to reflect further upon after the hearings and considering the written submissions. However, I have not been able to determine what specific main modifications would be necessary to address soundness concerns relating to the development management policies given the fundamental lack of evidence and issues relating to the strategic matters identified above.

109. In addition, other changes within the planning system, such as, amongst other things, the Use Classes Order and permitted development rights, may affect the effectiveness of some policies. These considerations, taken together with outdated supporting evidence may mean that some policies would not now be justified. As the examination has effectively stagnated during a long-term pause, these matters have not been revisited in updated evidence, discussed at further hearings, and soundness concerns remain unresolved. Moreover, other policies about which I did not have soundness concerns may have since become unsound, due for example to changes in the Building Regulations.

## **Conclusion**

110. The Plan is not based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. It is not, therefore, sound as it is not consistent with national policy, justified or effective, and I am not able to make it sound by main modifications for the reasons explained above.

## **Overall Conclusion and Recommendation**

111. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above. It has not been possible to recommend main modifications to remedy these deficiencies.

*Philip Lewis*

Inspector

This report is accompanied by Annex 1, 2, 3 and 4.

## **Tandridge Local Plan Inspectors Report Annexed documents**

## Annex 1 – ID 16

### Tandridge District Council. Examination of ‘Our Local Plan:2033’

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Jackie King

Tandridge District Council

Executive Head of Corporate Resources

11 December 2020

Dear Ms King

### **Examination of the Tandridge District Council Our Local Plan: 2033**

#### **Inspectors preliminary conclusions and advice**

##### **Introduction**

1. I indicated at the conclusion of the examination hearings on 28 November 2019 that I would write to the Council to set out my thoughts on the Tandridge District Council Our Local Plan: 2033 (the Plan) at that point and on the way forward for the examination. My intention was however overtaken by events.
2. I subsequently wrote to you following the unsuccessful bid made to the Housing Infrastructure Fund (HIF) to help deliver improvements to Junction 6 of the M25 and the A22/A264 Felbridge Junction, in April 2020 (ID12) and again in June 2020 (ID13), asking a number of questions regarding the implications of the HIF Bid decision for the Examination of the Local Plan. I also wrote to you in July regarding the publication of the 2018 based household projections (ID14) and then regarding changes to the Use Classes Order (ID15).
3. I appreciate that whilst the Council has made considerable efforts to provide the information that I have requested, and that your various responses have been posted on the Examination website (TED37, TED38, TED38a, TE41 and TED42), it has not been possible for you to respond in full to my questions regarding the implications of the HIF Bid decision for the Plan. I understand that the preparation of a statement of common ground between the Council, Surrey County Council and Highways England and agreement of a methodology for further transport modelling is still some time away. Rather than perpetuate any greater delay in the Examination and uncertainty

amongst representors and other interested parties, I have decided to issue this letter now to provide an indication of my thoughts on a number of key matters and to set out options for what may happen next. Should the Examination continue, my formal recommendations and the full reasons for them would be given in my report to the Council at the end of the Examination.

4. The comments in this letter are based on all that I have read, heard and seen to date, including the Inspector led consultations conducted after the hearings finished. However, I emphasise that the Examination is not yet concluded and consultation on any Main Modifications (MM) is still to take place, or indeed any further hearing sessions which are to be held. Therefore, these comments are without prejudice to my final conclusions on the Plan.
5. The revised National Planning Policy Framework (The Framework) was published in July 2018 and further revised in February and June 2019. It includes a transitional arrangement in paragraph 214 which indicates that, for the purpose of examining this Plan, the policies in the 2012 Framework will apply. Similarly, where the Planning Practice Guidance (PPG) has been updated to reflect the revised Framework, the previous versions of the PPG apply for the purposes of this Examination under the transitional arrangement. Therefore, unless stated otherwise, references in this letter are to the 2012 Framework and the PPG which were extant prior to the publication of the 2018 Framework.

### **Legal compliance**

6. For reasons I would ultimately explain in my report, I am at this point content that the Plan to date is legally compliant. This is of course subject to any further revision to the Habitats Regulations Assessment and Sustainability Appraisal being considered in due course. I have however significant soundness concerns which I shall go on to explain.

### **Strategic Infrastructure**

#### **TLP01: Spatial Strategy. Strategic Policy SGC01: South Godstone Garden Community and HSG11: Land to the West of Godstone**

7. I shall start with the Spatial Strategy set out in TLP01. Amongst other things, this sets out how new housing would be provided in Tier 1 and Tier 2 settlements as identified in the Plan, and at the proposed South Godstone Garden Community (SGC01). SGC01 is intended to deliver about 1,400 homes in the Plan period, with a further 2,600 homes to be delivered beyond the Plan period. The delivery of homes is intended to commence in 2026/27. SGC01 would also provide for, amongst other things, accommodation for gypsies and travellers, employment land, roads and infrastructure and open space.

8. The Statement of Common Ground with Highways England (SDTCE23) is clear that the impacts of the development proposed through the Plan as a whole on the Strategic Route Network would be, in the terms of the Framework, severe. Moreover, it is the view of Highways England that mitigation is required at Junction 6 of the M25 by 2024/25 based on the current situation, unless a later date is justified. The evidence is that Junction 6 of the M25 is currently operating over its design capacity during the AM and PM peaks (INFE29). Improvements to the strategic infrastructure at Junction 6 are considered necessary prior to any delivery of dwellings at the proposed South Godstone Garden Community. There is no convincing evidence before me to the contrary. In addition, I note that Policy HSG11 Land to the West of Godstone, which is sited near Junction 6, is required to make a contribution towards improvements at the junction, and the development of this proposal would also appear dependant upon the improvements being undertaken. I consequently consider the proposed improvements to Junction 6 fundamental to the implementation of significant parts of the spatial strategy.
9. The transport modelling undertaken for the Plan identifies the need for mitigation measures to be put into place at a number of other locations in the highways network. The unsuccessful HIF Bid sought to secure the required improvements to Junction 6 of the M25 by 2024/25, along with other improvements. The reasons given for the Bid being unsuccessful were set out in the letter from the Ministry of Housing, Communities (MHCLG) and Local Government dated 10 March 2020 to Surrey County Council. These are as follows. *'Surrey's bid was an ambitious proposal in an area of high housing demand. However, the bid will not receive HIF funding due to the delivery risks stemming from the complex land assembly needed for the scheme. The bid also does not demonstrate sufficient value for money for the taxpayer, as the extra housing had the potential to create increased congestion on local roads, without clear mitigations, which outweighed the other benefits of the bid'*. The letter also sets out that (MHCLG) *'believe the case would benefit from further development, including whether there are other transport improvements that would help mitigate against the increased congestion'*. Despite the outcome of the HIF Bid, the need for strategic infrastructure improvements remain.
10. Whilst the Plan was drawn up prior to the HIF Bid and I appreciate that the HIF was one of the ways in which this essential strategic infrastructure may be funded, the HIF nevertheless offered a way for the South Godstone Garden Community and the land to the West of Godstone to be developed within the Plan period, without giving rise to severe impacts on the transport network. In the absence of such funding, there is not the evidence before me that demonstrates that either of these schemes can be considered as being deliverable or developable as per the Framework definitions given the lack of clarity as to how and when the necessary infrastructure improvements would take place. Whilst we touched upon these issues at the Hearings, the HIF Bid



decision came after the Hearings closed and represents a significant change in circumstance.

11. At this point in time, I have significant concerns about the soundness of the Plan given that I cannot conclude that the spatial strategy is justified, a number of the proposals of the Plan do not appear effective and in terms of effects on the transport network, the Plan would not be consistent with national policy.
12. I appreciate the efforts made by the Council to try to progress these matters, particularly in these difficult times due to the effects of the Coronavirus. However, in the absence of any comfort that the provision of strategic infrastructure is a matter that can be readily resolved in a timely fashion and not cause undue delay to the Examination and adoption of the Plan, and prolong uncertainty, presently, I can only conclude that the Plan is unsound and that there is clearly no path to making it so.
13. Given the view of Highways England that mitigation is required at Junction 6 of the M25 by 2024/25, there is also a broader question about the approach to the provision of development in Tandridge District and cumulatively with development in other areas, which may contribute to capacity issues at Junction 6. Put another way, in the absence of the certainty in delivery of transport mitigation, it is uncertain which, if any, of the Plans proposals may go ahead without residual cumulative impacts of development on the transport network being severe in terms of the Framework? These are significant concerns which go to the heart of the Plan.
14. I am conscious that representors and other interested persons have not had the chance to comment on the implications of the HIF Bid decision for the Plan, nor has this matter been subject to a further hearing session. My aim in issuing my letters to the Council was that further evidence could be provided which would then be subject to consultation and consideration as part of the ongoing Examination of the Plan. I go on to consider the possible ways forward for the Examination and in doing so, have these considerations uppermost in my mind. The way forward is ultimately a matter for the Council however as it is of course the Council's Plan.
15. Finally, I must stress that even if the strategic infrastructure matter could be resolved in the next year or so, and at present there is no clear timetable for resolving this or a clear means of doing so, I am not convinced that the Garden Community would make any significant contribution to housing land supply in the Plan period due to the timescales involved in its implementation, exacerbated by the delay to this Plan. As we discussed at the hearings, there are a number of factors which would need to come together for the timely implementation of the proposal. These include amongst other things, the preparation, examination and adoption of the Area Action Plan, the preparation of and consideration of planning applications, any compulsory

acquisitions and the provision of off-site infrastructure, prior to work commencing onsite.

## **The objectively assessed needs for housing (OAN) and household projections**

### *Housing Market Area (HMA)*

16. It is clear that the definition of the HMA for Tandridge is not a simple matter. There is evidence that Tandridge has housing market relationships to varying extents with its neighbours, and that there is in effect, overlap of neighbouring HMAs across the District. It has not however been demonstrated that the District falls within a particular HMA, other than having wider relationships particularly with the London Borough of Croydon, Reigate and Banstead and Mid Sussex. In practical terms, given recent plan making activities of neighbouring authorities, the Council has had little choice but to prepare its Strategic Housing Market Assessment (SHMA) for Tandridge alone after attempts to prepare a joint SHMA were unsuccessful. Whilst the definition of the HMA based on Tandridge is inconsistent with the guidance set out in the PPG, it is nevertheless a pragmatic approach that has allowed the Plan to be prepared.

### *OAN*

17. Given that the Plan was submitted under the transitional arrangements, in accordance with the PPG it is appropriate that the local needs assessment should be informed by the latest available information. At the hearings, we looked in some detail at the 2016 based household projections as the starting point for defining the OAN. The OAN derived by the Council is 332 dwellings per annum (dpa) whilst a range of figures were argued by representors for a higher OAN, up to around 570 dpa. I wrote to you in July and have received your comments that the Council considers that the 2018 based household projections represent a meaningful change in the context of the PPG<sup>1</sup>. The Council is of the view that the meaningful change would give rise to an OAN of 266 dpa (TED42). This would represent a significant change to the Plan and would need to be subject of consultation and it is quite likely that further hearing sessions would be necessary. Any consequent change in the OAN may have implications for the demonstration of exceptional circumstances for the alteration of Green Belt boundaries<sup>2</sup>.
18. I will however take this opportunity to share with you the position I had reached prior to the publication of the 2018 based projections as it would be of relevance to any future hearing session. This is that the OAN, in overall terms by applying the 2016 household projections and having regard to the

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<sup>1</sup> Paragraph: 016 Reference ID: 2a-016-20150227

<sup>2</sup> For example see Aireborough Neighbourhood Development Forum v Leeds City Council & Ors [2020] EWHC 1461 (Admin)

need for adjustments, is likely to fall within the range of 450 to 495 (dpa). This range is significantly higher than the figure in the submitted Plan and that the Council calculate using the 2018 based projections. However, the definition of the actual OAN figure requires a recalculation as per the components explained below, hence I have provided a range at this point. The basis of the position I have reached is summarised in the following table, including those points which require calculation. Whilst I will set out my reasoning in full in due course, for clarification, I will briefly address the principal points.

<b>OAN components starting with the 2016 based household projections</b>			
1	Household change per year in published official projection	----- -	322 hpa
2	Adjustments for mid year estimates 2013-18	-1 hpa	321 hpa
3	Allowance for empty and second homes	10 dpa	331 dpa
4	10 year migration adjustment to be calculated using the Councils 2016 SNHP 10 Year all migration figure	XX dpa	XXX dpa
5	Household formation rate adjustment using the Councils Household Representative Rate (HRR) Age Only Floor figure	69 dpa	XXX dpa
6	Market signals uplift of 20%	XX dpa	XXX dpa
7	Estimated OAN		XXX dpa

(The table includes both dpa and households per annum hpa as per statement of common ground SDTCE24)

#### *Migration adjustment*

19. The 2016 based projections give rise to a significantly lower overall household change figure than the 2014 based projections, which is due, in part, to different migration trend periods. For calculating the OAN for a plan period to 2033, I consider that a longer trend period for migration should be used instead of the shorter period in the 2016 projections. The use of a 10 year period is proportionate and that the approach to calculating the 10 year all migration figure by the Council is justified. The OAN should be calculated with a migration adjustment based on the Councils 2016 SNHP 10 Year all migration figure (as discussed in evidence base document HNS5).

#### *Household formation adjustment*

20. The PPG sets out that household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends and for example, formation rates may have been suppressed historically by under-supply and worsening affordability of housing. The household formation rates in the 2016 based projections are markedly lower than those of the 2014

based projections, and in particular, indicate a substantial decline in rates for males aged 20-39 and for females 75-89.

21. The difference between the 2014 and 2016 household formation rates can be explained to a degree by the change to the use of age and sex groups in the 2016 projections rather than separate projections for age, sex and marital status groups, and the move to the use of the 'household representative person'. However, uncertainty remains about their validity given the low 2011 census household figures, which indicate suppressed demand.
22. The Council has calculated a variant projection for which the Household Representative Rate (HRR) is assumed, as a minimum, to rise back to the 2001 level, referred to as the 'age only HRR floor'. This provides an adjustment of 69 homes a year to the 2016 based figures. Such an adjustment would address issues of suppressed demand particularly in regard to younger households. In addition, it would also eliminate falling HRRs in age groups between 55-74. This change would not just address suppressed demand however, and I agree that in some age groups, falling HRRs may just be due to more people living as couples, rather than single person households. Consequently, applying the age only floor adjustment, would in effect build in some 'headroom' within the OAN, which would also be of benefit in terms of affordability.

#### *Market Signals adjustment*

23. The PPG sets out that the housing need number suggested by household projections should be adjusted to reflect appropriate market signals, as well as other market indicators of the balance between the demand for, and supply of dwellings.
24. Tandridge, with a lower quartile affordability ratio stated at that time to be 14.10, is one of the least affordable areas amongst the comparator authorities considered in the Council's SHMA 2018 analysis of Market Signals Technical Paper (HNS12). Average house prices are significantly above the national average, as are rental levels and the estimated values of residential land. These factors have worsened over time. Tandridge however has over crowding rates appreciably below the national average and a lower level of concealed families. Taken together however, these factors clearly point to the need for a market signals adjustment. I would welcome your confirmation as to whether there has been any appreciable change in affordability since the Market Signals Technical Paper was completed.
25. I have been referred to a number of local plans where Inspectors concluded that market signals adjustments were necessary. I note in particular that in the case of Mid Sussex, with which Tandridge has acknowledged housing

market links, a 20% uplift was applied. The affordability ratio of Tandridge is higher than that of Mid Sussex, and therefore, this indicates that the 20% figure could be seen as the minimum level appropriate. I note however, that the Mid Sussex figure was based upon the 2014 based projections and consequently, the 'latest available evidence' before me in this regard is inevitably different.

26. The PPG sets out that in areas where an upward adjustment is required, plan makers should set this adjustment at a level that is reasonable. Starting with a minimum level of 20% for a market signals adjustment, this would recognise the need to address affordability. I have had regard to the effect of the household formation rate adjustment, which in addition to addressing suppressed demand, would, through applying the age only HRR floor, also make a contribution towards addressing affordability. Having considered the modelling put forward by the representors, I agree that there is not a 'precise' or 'correct' answer to what the level of any market signals adjustment should be. Given the complexity of the housing market area, the proximity of the London housing market and the question of whether significant new house building would simply correspond with considerable new inward migration, I have not been convinced that a figure higher than 20% is justified.

### **Overall conclusions on OAN**

27. In summary, my preliminary view is that the definition of the HMA based on Tandridge District is a pragmatic approach which I find sound. I consider that the OAN using the 2016 based projections and the adjustments I have explained, should be in the region of 450 to 495 (dpa). However, this exercise now needs to be carried out using the 2018 based projections as a starting point applying any necessary adjustments considered above. Consequently, at this stage I cannot reach a conclusion on whether the OAN identified in the submitted plan is sound, though it is clearly below that derived starting with the 2016 based projections and applying the adjustments described above.

### **Housing need and the provision for housing**

#### **The housing requirement and supply**

28. Paragraph 14 of the Framework sets out, amongst other things, that Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate development should be restricted.

29. The Plan, as submitted, sought to deliver 6,056 homes in the Plan period (about 302 dpa). This is significantly below the OAN identified by the Council in the submitted Plan of 9,400 units. The Council has subsequently reviewed the potential supply of homes and through the hearings has stated that it should be 6,352 dwellings, principally through reconsidering the minimum capacity of the proposed allocated sites.

30. My initial view however is that I consider that the Plan would not deliver the indicated number of homes as proposed. This is because it has not been demonstrated that the identified Urban Capacity Sites, Town Centre Initiatives, provision of Council housing and empty homes initiatives are deliverable or developable as defined in the Framework. In addition, I have concerns as expressed above regarding the proposed Garden Community and Policy HSG11.

#### *Commitments*

31. In order for me to reach a view on whether the Plan would provide for a five year supply of deliverable housing sites on adoption, and a supply of specific developable sites or broad locations for growth for years 6 to 10, I need up to date information on the components of housing land supply. The Council's latest Annual Monitoring Report should be added to the Examination Library.

#### *Windfall*

32. The Council includes the provision for 31 net dwellings per annum to come forward by way of windfall (updated in document TED14). This is based upon the average number of completions of dwellings on sites of 4 or less, excluding residential garden developments, since 2006/7. The Framework allows for an allowance to be made for windfall sites if there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. I am satisfied that there is compelling evidence of past supply, and having regard to the Housing and Economic Land Availability Assessment, and proposed development management policies, supply at this level should be sustained through the plan period.

#### *Town centre and other initiatives*

33. An allowance is included in the housing trajectory for sites to come forward in town centres which may potentially contribute to the supply of homes. I am not convinced however that any such contributions should be considered as being either deliverable or developable as per the Framework definitions.

Whilst the evidence points to efforts by the Council to maximise development opportunities outside of the Green Belt, there is not compelling evidence that such sites have been consistently available or will continue to provide a reliable source of new homes. Therefore, the inclusion in the trajectory is not justified. Similarly, there is insufficient evidence to justify the inclusion of a contribution of dwellings from the North Tandridge One Public Estate (HSG20) in the trajectory, given the uncertainty about the sites which may be developed. However, I do regard these initiatives have potential to contribute some supply over the Plan period.

#### *Council house building*

34. The Council has a housebuilding programme using the capacity of its Housing Revenue Account, with a current programme of 141 homes. There is capacity to deliver between 30-40 homes per annum in the first 7 years of a new programme starting in 2022/23. However, in the absence of confirmation as to the future programme and details of specific sites, I cannot regard such schemes as being either deliverable or developable in terms of the Framework, and an allowance for Council house building should not be made in the trajectory. Future Council house building will contribute to the overall supply of housing in the Plan period.

#### *Vacant and empty homes*

35. The Council also include a contribution to housing land supply from returning empty homes into use, which is a matter addressed in the Council's Housing Strategy (HNS1E). The vacancy rate in Tandridge at 2.84% is above the average for England as set out in the MHCLG Dwelling Stock Estimates: 2017, England which stood at about 2.5%. However, vacant homes form part of the baseline housing stock of the District and one would expect to see a certain level of vacancy in the housing stock due to various factors and within the normal operation of the housing market.

36. I note that the Council does not have a policy to reduce the overall vacancy rate for the District, or to sustain a lower level of vacancies through the plan period. Whilst it intends to prepare an Empty Homes Strategy and a targeted action plan, as far as I am aware, these are not in place. Although in 2018/19, 15 empty homes were brought back into use, I cannot be confident that such initiatives would provide a reliable net source of housing through the Plan period and would not in effect be a form of double counting, given that such homes already form part of the housing stock. The inclusion of an allowance for vacant and empty homes in the trajectory is not therefore justified.

### *Housing commitments and lapse rates*

37. The Council identify that as of 1 April 2019, there was planning permission for 1,097 dwellings, after excluding planning permissions for 89 further dwellings which are considered unlikely to come forward within the time frames of the respective permissions. The Council has recorded that planning permission has lapsed for a total of 77 net housing units in the plan period to date, a lapse rate of about 5%. The removal of the 89 dwellings amounts to a figure of over 5%. Furthermore, it is clear from the Council's data that nearly all permitted housing sites are built out, reflecting the strength of the housing market. I do not accept that applying a higher lapse rate is supported by evidence, especially considering what I have heard and read about housing need and demand. Therefore, the Council's approach to this matter is reasonable.

### *Proposed housing allocations*

38. The submitted Plan includes estimated site yields for the proposed housing allocations. Having had careful regard to the evidence, I find that in a number of cases, there are under-estimates of the potential site yields. I consider that the policies should be clear as to what the potential yields may be, though the Plan should be clear that it will ultimately be through the operation of the development management process where the actual number of units constructed at each allocation would be decided. I shall make specific comments in respect of a number of proposed allocations later, but for the purposes of calculating broad housing land supply, I find that the potential site yields set out in TED17 to be appropriate and that they could make a significant increase in supply over that set out in the submitted Plan.

### **Overall conclusions on supply**

39. The housing land supply should be recalculated, using the latest available data such as completions. I am satisfied that the windfall allowance is sound, but find that the contributions to supply from town centre initiatives, Council house building and vacant and empty homes are not justified. As I have explained above, supply from the Garden Community should also be removed, along with that from HSG11, unless there is very clear evidence that the strategic road infrastructure can be provided. Please recalculate the current housing land supply on the above basis.

### **The dwelling requirement**

40. The dwelling requirement for the Plan will be considered through the application of paragraph 14 of the Framework. I have already explained that I anticipate that the OAN derived from the 2016 based projections is likely to be in the region of 450 to 495 dpa. The affordable housing OAN should be around 296 dpa for the Plan period, with the first five years after adoption



being 337 dpa. In the first 6 years of the Plan period, 1,524 homes were delivered. This rate of delivery, whilst considerably in excess of the requirement of 125 dpa set out in the currently adopted Tandridge Core Strategy, is considerably below the OAN, or indeed the level of local housing need calculated using the standard method (which is considerably higher again). Calculated against the recalculated OAN which I anticipate falls in the range 450/495 dpa using the 2016 based projections, there would be an under supply in the Plan period to date which would need to be addressed in the remaining years. This would widen the gap between supply and requirement further. The low affordability of homes and the high need for affordable homes to meet existing and future needs add to the acuteness and intensity of need for new homes in Tandridge.

41. About 94% of the Plan area is within the Metropolitan Green Belt. The Council has sought to accommodate new homes in the parts of the District outside of the Green Belt through specific direct measures such as regeneration initiatives and through the proposed development management policies. However, it is clear that further opportunities for new homes to be provided in these locations are limited. As I have already explained, it is difficult to evidence that some of the potential opportunities identified in the Plan meet the definitions of deliverability or developability as set out in the Framework for them to be taken fully into account in the housing land supply. However, as I have previously stated, they could contribute to the overall provision of housing over time.
42. The Council has, through its Green Belt Assessment, Strategic Housing Land Availability Assessments and Sustainability Appraisal assessed constraints on the supply of land for housing. I find that these assessments are adequate, and together with the evidence of the efforts to accommodate homes outside the Green Belt boundaries, show that there are significant difficulties in achieving sustainable development without impinging on the Green Belt boundaries and removing land from the Green Belt. The Council has, through its Green Belt Assessment, considered the nature and extent of harm which would arise from the proposed allocations to the Green Belt and has sought to ameliorate the possible impacts on the purposes of the Green Belt through the plan making process. I will comment on individual proposed Green Belt boundary alterations in due course, but consider that the Council's approach to concluding whether there are exceptional circumstances for altering the Green Belt boundaries has been systematic. I agree with the Council's position that at a strategic level, there are exceptional circumstances to alter Green Belt boundaries.
43. The Government attaches great importance to Green Belts through national planning policy, whilst also seeking to boost significantly the supply of housing. These factors come together through the application of paragraph 14 of the Framework. There is a body of representors who wish to see Green

Belt boundary alterations to an extent that a greater amount of land is released for new development. There are also representors who do not consider that the Plan should be seeking to remove land from the Green Belt to the extent proposed. However, I must form a balanced judgement as to the amount of land which should be removed from the Green Belt by this Plan. Furthermore, parts of the District also fall within the Surrey Hills and High Weald Areas of Outstanding Natural Beauty and in this Examination, I am giving great weight to conserving landscape and scenic beauty, whilst having regard to the purpose of conserving and enhancing the natural beauty of the areas of outstanding natural beauty.

44. It is clear to me that there are specific policies of the Framework which indicate that development should be restricted in Tandridge and that in principle, the Plan would be sound in not meeting the OAN in full. I cannot conclude on what a sound requirement should be. This is because of the position on the OAN, the need to recalibrate housing supply and uncertainties over the provision of strategic transport infrastructure, particularly upon the South Godstone Garden Community and Policy HSG11.

#### *Unmet need*

45. The Plan, in not meeting the OAN in full, would give rise to significant unmet housing need. With the SHMA being undertaken on the basis of the HMA defined for Tandridge District, the unmet need cannot be accommodated within the HMA. In this round of Plan making, neighbouring local planning authorities have stated that they are unable to help Tandridge in meeting any unmet need arising in Tandridge. In this context, there is little more that Tandridge could have done to secure their cooperation.
46. Whilst I intend to recommend that the approach taken for this Plan in defining the HMA is acceptable in pragmatic terms, given that development plans have been prepared by neighbours on the basis of HMAs which exclude Tandridge, I would also consider recommending that an immediate review of the Plan is commenced on adoption. This would enable full opportunity for joint working with neighbours in the next round of plan making, so that the particular circumstances which has led to defining the HMA can be avoided next time around.

#### *Provision for Gypsies, Travellers and Travelling Showpeople*

47. As discussed at the Hearings, I am of the view that the approach in the Plan to meeting the needs of Gypsies and Travellers does not accord with national policy as set out in the Planning Policy for Traveller Sites (PPTS). The Plan does not adequately address the need for further pitches identified through the Gypsy and Traveller Accommodation Assessment (GTAA) 2017 through its approach to those people for whom it was not possible to determine their

travelling status (unknowns) and is not addressing the needs of those Travellers who identify as cultural travellers in terms of the Equalities Act 2010. Romany Gypsies and Irish Travellers for example, are ethnic minorities and thus have the protected characteristic of race under s149(7) of the Equalities Act, whether they have Traveller status for the purposes of PPTS or not. These matters can be addressed through the level of need being reassessed and through the Plan identifying a supply of specific deliverable and where necessary developable sites sufficient to meet the identified need.

48. I note that the Council has, since the hearings, already undertaken work to this effect. The provision of any sites in the Green Belt should be done on an inset basis, as I would have concerns about the deliverability (and therefore effectiveness) of 'washed over' sites where very special circumstances would have to be demonstrated in any future planning application, as such development is likely to be considered as being inappropriate development. It would be necessary to undertake consultation on any proposed sites which could be undertaken as part of a Main Modifications consultation, followed as necessary by hearings.

### **Overall conclusions on the dwelling requirement**

49. The dwelling requirement for the Plan will be considered through the application of paragraph 14 of the Framework. At present due to my concerns about soundness and unresolved matters, I am unable to reach a firm view on this matter. My preliminary view is that the OAN is higher than that set out in the submitted Plan and that the gap between OAN and supply will widen significantly.

### **Proposed Allocations**

50. Before I finalise my views on the proposed allocations, I have some further questions below. The issues I identify may diminish housing supply through the Plan.

*HSG02: Chapel Road (submitted Plan estimated site yield 15 dwellings) and HSG04: Woodlands Garage, Chapel Road, Smallfield (submitted Plan estimated site yield 10 dwellings)*

51. The proposed sites both fall within Flood Zone 3B (the functional floodplain) and are for development which falls under the 'more vulnerable' category. The evidence before me is insufficient to demonstrate that both elements of the exceptions test have been passed and I am minded to recommend that the sites are deleted from the Plan as they do not accord with national policy. These matters may however be capable of being addressed through site specific assessments to inform the exceptions test and subsequent MMs. I invite you to consider whether you wish to undertake that.

*HSG06: Land off Salmons Lane West, Caterham (submitted Plan estimated site yield 75 dwellings)*

52. The proposed allocation falls within the Kenley Aerodrome Conservation Area and the settings of a number of designated heritage assets. In order for me to be able to reach a view on the soundness of the proposed allocation, please provide me with your assessment of the significance of the heritage assets for which there is potential for the allocation to cause harm, and an assessment of the effect of the proposed allocation on the significance of the heritage assets.

*HSG12: Land at the Old Cottage, Station Road, Lingfield (submitted Plan estimated site yield 60 dwellings)*

53. The proposed allocation falls predominately within the Lingfield Conservation Area and the settings of a number of listed buildings. In order for me to be able to reach a view on the soundness of the proposed allocation, please provide me with your assessment of the significance of heritage assets for which there is potential for the allocation to cause harm, and an assessment of the effect of the proposed allocation on the significance of the heritage assets.

*SES04: Westerham Road Industrial Estate, Tatsfield*

54. The proposed allocation relates to an area of previously developed land, situated within the Surrey Hills AONB and Green Belt, used principally for open storage. I am minded to conclude that there are exceptional circumstances to alter the Green Belt boundaries in respect of the site, set out in the Green Belt Assessment. It is however a sensitive site in landscape terms and at present is not developed with any buildings of a significant height. The policy should be amended to ensure that the landscape and scenic beauty of the AONB would be conserved.

#### *Education provision*

55. The Council, working with Surrey County Council has provided the note (TED23) regarding primary school provision and comments were invited from participants. The forecasts, taking into account the development proposed through the Plan, identify a deficit of school places growing towards the end of the Plan period for Tandridge as a whole.

56. The Plan as submitted includes provision for two new primary schools, one at HSG15: Land West of Limpsfield Road, Warlingham, and a 'strategic opportunity' at HSG13: Land West of Red Lane, Hurst Green.

57. In order for me to reach a conclusion on education provision, it would be helpful if further information could be provided which assesses the need for the proposed school sites in the context of the existing provision and capacity of primary schools in Tandridge, and forecast growth in need arising through the Plan period.

### **Development Management Policies**

58. I have the following comments in regard to a number of development management policies. I have read your response regarding the implications of the changes to the Use Classes Order and consider that these matters can be addressed through the preparation of MMs.

#### *TLP02: Presumption in favour of Sustainable Development*

59. The Policy would be inconsistent with the current Framework on adoption. Given there is no need to reiterate policies of the Framework, the policy should be deleted.

#### *TLP08: Rural Settlements*

60. The Policy identifies those settlements designated as Rural Settlements (Tier 3) and sets out criteria for the management of development. However, given the way the policy is structured and that all the listed settlements other than Woldingham are washed over by the Green Belt, it would not be effective and is not consistent with Green Belt Policy as set out in the Framework. The Policy should be amended so that the policy approaches are clearly distinguished between Woldingham (inset from the Green Belt) and the washed over settlements. A number of the criteria for development within the Green Belt are not consistent with the Framework and would not be effective. For example, criterion IV regarding extensions or alterations to existing buildings is not consistent with paragraph 89 of the Framework in respect to 'disproportionate additions' and there is no justification for this inconsistency. The Policy should be altered so that it is consistent with the Framework and with the changes proposed to Policy TLP03.

#### *TLP:12 Affordable Housing Requirement*

61. The Policy sets a threshold of 5 dwellings and over for an affordable housing requirement on sites outside of Tier 1 and 2 settlements, and allocated sites. Whilst the application of the 5 dwelling threshold within the AONBs would be consistent with the Written Ministerial Statement by the then Minister of State for Housing and Planning on 28 Nov 2014, and would future proof the Plan in terms of current national planning policy, the general application of the threshold to other rural areas (which are not designated as 'Rural' under section 157 of the Housing Act 1985) has not been justified. The Policy

should be amended accordingly. This is in addition to the changes discussed at the hearings.

## Way forward

62. The examination has been running for nearly two years and there are still significant uncertainties regarding fundamental issues about housing need and supply. As things stand, it is conceivable that the need may be higher than proposed in the submitted plan and there are significant problems with the housing supply, including the proposed Garden Community, with no obvious way of resolving this specific issue in the near future. There is therefore a widening gap between need and supply. Furthermore, the unresolved questions around the provision of strategic transport infrastructure casts doubt on the capacity of the strategic transport network to accommodate development in the District. In addition, the work needed to move the Plan to adoption is akin to plan preparation rather than plan examination.
63. I now turn to the question of how to progress the Examination? There are several broad choices as I see it:
- Pause the Examination and continue to attempt to resolve the issue of the provision of strategic infrastructure, the OAN, housing requirement and supply, including the Garden Community proposal and provision for Gypsies and Travellers to an agreed timescale along with changes made to the Plan as necessary arising through addressing my soundness comments above; or
  - Withdraw the Plan and commence the preparation of a new Plan as per current national planning policy.
64. I consider that the first option is likely to cause significant delay to the adoption of the Plan, perpetuate uncertainty to local people and even if this work is carried out, I am unconvinced that the Garden Community proposal would make a significant contribution, if any, to housing land supply during the plan period, or indeed whether I should be able ultimately to find it sound. Furthermore, the Plan which emerged from this process may be considerably different from which was submitted for examination, such as including proposed allocations for Gypsy and Traveller sites, and it will be necessary, amongst other things, to revisit the spatial strategy, the OAN and the question of exceptional circumstances for altering the boundaries of the Green Belt, along with further Sustainability Appraisal and Habitats Regulations Assessment.
65. There is also the risk that further evidence will emerge during the time the Examination is paused, and circumstances may change, which may give rise to yet further work.

66. Clearly, there are a number of matters which representors and interested parties may wish to comment upon and should the Plan be progressed, I will make clear when comments would be sought and further hearings held. There are a number of potential MMs that we have discussed and that you have collated following the Hearings and it is likely that others would arise following the completion of the additional work I have identified above. Clearly, the Council would have to carry out considerable further work, this would need to be consulted on followed by further hearing sessions. Sustainability Appraisal and Habitats Regulations Assessment is likely to be required in connection with these.
67. I have set out as a second option that asks whether progress would be better made in pursuing a new plan, given the significant efforts needed to make sound that submitted, which may require immediate review given that it is being examined under the transitional arrangements or as proposed in the White Paper. However, I appreciate that the withdrawal of the Plan would not address ongoing issues of housing land supply in Tandridge nor address the provision of sites for Gypsies and Travellers.
68. I understand that after the considerable efforts made by the Council to progress the Plan since the close of the hearings, my views expressed in this letter will be disappointing. However, as things stand, the submitted Plan has a number of significant soundness issues which do not appear capable of being readily fixed and the point has been reached where a decision needs to be taken as to how the Plan should be progressed.
69. I appreciate that you may need some time to reflect on the contents of this letter and to determine the preferred course of action. I am not setting a deadline for a response from the Council, but an early indication of when the Council is likely to be able to provide a response would be appreciated.
70. I am not seeking a response to this letter from any other parties and will not receive any comments on it. Nevertheless, I am happy to provide any necessary clarification to the Council via the Programme Officer. The Council should make this letter available to all interested parties by adding it to the Examination website.

Yours sincerely

Philip Lewis

INSPECTOR

## **Annex 2 – ID 20**

### **Tandridge District Council. Examination of ‘Our Local Plan:2033’**

**Inspector:** Philip Lewis BA(Hons) MA MRTPI

**Programme Officer:** Chris Banks

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Mr David Ford

Chief Executive

Tandridge District Council

7 February 2022

Dear Mr Ford

#### **Examination of the Tandridge District Council Our Local Plan: 2033**

1. Thank you for your letter dated 21 January 2022 regarding the examination of the Tandridge District Council Our Local Plan: 2033 (the Plan), and submission of the technical assessment of potential interim mitigation measures for Junction 6 of the M25.
2. Progress of the examination has been awaiting a study of the capacity of Junction 6 of the M25 and assessment of mitigation measures, following the rejection of the Housing Infrastructure Fund bid. The technical assessment sets out a potential solution to the capacity issues at Junction 6 sufficient to enable the examination to proceed. I will go on to explain how that could happen should the Council choose to do so.
3. In terms of the other options for the examination suggested, I set out my views on amending the Plan so that it had a shorter plan period in my letter of 13 September 2021 (ID19). I shall not rehearse those here, but do not support the suggestion for the reasons that I have already stated. It may be that I recommend that the Plan is subject to an early review policy if that is necessary to make it sound, but given the point reached in the examination, I am not in the position to reach such a conclusion, so I discount that option too at this stage. This may however be an outcome of my examination in due course.
4. In my view, the options before us are that the examination of the submitted plan is progressed, or that the Plan is withdrawn and a new one prepared.

#### **Continue the examination of the submitted Plan**

5. Now that the work has been undertaken in respect of Junction 6 of the M25, I consider that it is feasible that an adopted Plan could be in place by December



2023 to meet the Government target. However, this is subject to my soundness concerns being addressed, and there is no certainty that an adopted Plan can be achieved.

6. I identified a number of matters in my preliminary conclusions and advice letter of 11 December 2020 (ID16) to which I need a response before I can reach firm recommendations on the soundness of the Plan. It is more than two years since the hearings closed and in addition to the technical assessment of Junction 6 of the M25, other evidence has emerged in respect of certain matters, which may have a bearing on the examination, and on which representors have not had the opportunity to comment. This is one of the problems involved in holding a very long examination.
7. There are a number of issues on which I need to reach a conclusion to determine whether and/or how the examination should progress thereafter. These are concerned with:
  - Junction 6 M25 mitigation;
  - The deliverability / developability of Strategic Policy SGC01: South Godstone Garden Community;
  - Calculating the OAN;
  - Housing Land Supply (HLS), to include calculation of the 5 year HLS;
  - Provision for education facilities; and
  - Provision for Gypsies, Travellers and Travelling Showpeople;
8. I consider it necessary to hold further hearing sessions in respect of these issues, though it may be that the provision of pitches or plots for Gypsies and Travellers and Travelling Showpeople could be dealt with in writing at this stage (subsequent hearings may be necessary if any site allocations are proposed).
9. If the Council wishes to proceed on this basis, I would need additional information from you to inform the preparation of the Matters, Issues and Questions, (MIQs) for the further hearings, and to help representors in drafting statements. I set these out below.

### **Mitigation works for Junction 6 of the M25**

10. Please provide:
  - A breakdown of the broad estimated costs for the proposed mitigation works. This should include all fees, costs of obtaining any land outside of the control of National Highways, construction costs, any consenting costs and provision for contingency.
  - A programme for the provision of the works to include any consenting and land acquisition, the intended date of them being completed and a justification for the timescales suggested.

- A Statement of Common Ground (SOCG) between the Council, National Highways and Surrey County Council to confirm agreement that the potential interim solution would address capacity issues at Junction 6, sufficient to allow the growth envisaged in the Plan to proceed without there being residual cumulative impacts of development which are severe<sup>3</sup>.
- Clarification of how the costs of the proposed works would be met, how the Plan should be amended to secure this, and what effect, if any, they would have on the viability and delivery of the Plan and its proposals. You may wish to provide an updated viability assessment.

### **South Godstone Garden Community**

11. Updated timescales for the preparation of the Area Action Plan and delivery of the proposed Garden Community scheme within the plan period and beyond.  
**Objectively Assessed Need (OAN)**
12. I set out in ID16 advice on how the OAN should be calculated with the 2016 based household projections as the starting point as discussed at the hearings. I have also sought the views of the Council regarding the implications of the publication of the 2018 based household projections (ID14) with your response being set out in TED42. Firstly, would the Council please recalculate the OAN as per my advice using the 2016 based household projections, and secondly having regard to the 2018 based household projections. The Council and the Tandridge Housing Forum provided a useful SOCG on OAN which clarified the areas of agreement and disagreement. I would encourage the preparation of a further SOCG with representors in this regard.

### **Housing land supply**

13. Please provide me with an up-to-date calculation of the housing land supply, using the completions since the plan base date and commitments taken from the latest available annual monitoring data, revised capacity for the proposed housing allocations, and having regard to my specific advice in respect of the different components of the housing land supply set out in ID16. Indicate whether the sites are considered to be deliverable or developable as per the National Planning Policy Framework (NPPF) 2012 definitions and provide evidence as appropriate (after adoption, the 5YHLS would be calculated against current national policy and definitions of deliverable and developable, and the Council may wish to consider the implications of that for demonstrating a 5YHLS). This is to assist me in establishing a residual requirement for the plan period taking into account completions and to confirm the overall supply available. Please do not provide further evidence to attempt to justify the figures which were set out in the submission Plan, such as in regard to Council House Building which we have already discussed, unless there has been a

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<sup>3</sup> NPPF 2012 paragraph 32

clear change in circumstances. Please also provide an updated housing trajectory.

### **Provision for Gypsies, Travellers and Travelling Showpeople**

14. Please provide me with an update on the provision of pitches and plots for Gypsies, Travellers and Travelling Showpeople, to include the status of current planning applications before the Council (and intended determination dates) and any planning appeals.

### **Education provision**

15. As I set out in ID16 please provide me with an assessment of the need for the proposed school sites in the context of the existing provision and capacity of primary schools in Tandridge, and forecast growth in need arising through the Plan period.

### **Other matters**

16. I have also sought some further work from you through ID16 relating to the proposed allocations and development management policies. Please confirm when you will respond to these matters. It may be necessary to hold some further hearing sessions in respect of some of these issues too, and to discuss other discrete matters, such as any proposed Gypsy and Traveller site allocations, prior to completing the preparation of Main Modifications (MMs). Any further proposed allocations should however be subject to consultation prior to being considered at any further hearing to ensure fairness.

### **Subsequent stages of the examination**

17. After the further hearings I would write to you to set out my views on whether the examination should progress, and if so, how that should occur. As I set out above, that may include further consultation and hearing sessions.
18. Subsequent to this, the next stage would be formal consultation on the MMs necessary to make the Plan sound. Further changes to the Policies Map should also be subject to consultation, along with an updated Sustainability Appraisal and Habitats Regulations Assessment.
19. The MMs consultation would be followed by me finalising my report to the Council, after which I would provide my report, formally ending the examination. The Council would then consider my report and adopt the Plan.

### **Withdrawing the Plan**

20. I turn now to my thoughts on the withdrawal of the Plan. The submitted Plan covers the period to 2033, and so would look ahead about 10 years from

adoption. There is a legal requirement for Local Plan Policies to be reviewed to assess whether they need updating at least once every five years<sup>4</sup>, and they should then be updated as necessary. As the Plan is being examined under the transitional arrangements set out in paragraph 220 of the revised NPPF, there is likely to be some inconsistency with current national policy upon adoption, with implications for the need to review policies, and for the application of paragraph 11 d) of the Revised NPPF in development management. Consistent with current national policy, the housing land supply would revert to being assessed against local housing need after 5 years in the circumstances set out in paragraph 74 and footnote 39 of the NPPF.

21. Should I find the Plan sound this may be subject to its prompt review. The Council may wish to consider whether its resources would be better deployed on a Plan with a longer timeframe and one which would be consistent with current national policy, and not requiring a prompt review. The preparation of a new Plan may also align better with the plan making of neighbours as the examination of plans submitted in the same 'round' as Tandridge finish. The Government is of course working on reforming the planning system and the outcome, implications or any transitional arrangements relating to plans in preparation are at present unknown.
22. The examination of the submitted Plan is still ongoing. Whilst I may conclude that the Plan can be amended so that it is capable of being found sound, I may however conclude that it is not and recommend that it is withdrawn. I may also conclude that further provision of housing may be needed, or that the Plan should be subject to immediate review. Whilst the examination may proceed, there remains uncertainty.
23. Although the Council has made considerable investment to date in preparing the Plan, much of the work undertaken would be helpful in the preparation of a new plan, which could be produced more quickly as a result of the existing evidence base, than starting completely a fresh.
24. As I've set out above, the Council has a significant amount of work to do, further hearings are necessary and there is the need for further consultation. At this stage I cannot be sure what my conclusions will be. The examination has already been running for 3 years, and at the earliest reasonable estimate it could be Spring 2023 before the Plan is adopted. A 5-year duration for an examination is extraordinary and much can change over that time. Consequently, carrying on is not a straightforward option. However, I will leave it with the Council to decide whether it would rather carry on with the examination or withdraw the plan.

## Conclusion

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<sup>4</sup> Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012

25. Throughout the examination, I have sought to be pragmatic, taking the view that should the Plan be capable of being made sound, I should invite the Council to undertake the work necessary to do so. The provision of the technical assessment data for Junction 6 of the M25 allows the examination to progress once more. However, the examination has been under way for over three years and if it continues, I expect it to be concluded by December 2023, as per the Governments deadline for all authorities to have up to date local plans in place. This is feasible in the time available, but would require the full commitment of the Council to achieving this. It is essential that we agree a project plan and the key milestones necessary.
26. To perpetuate the examination beyond the end of 2023 would not be in the interests of the proper planning of the area and would serve to cause unnecessary uncertainty for local people and those involved in the development process in the District. Consequently, if the examination is to progress to its conclusion, I expect to agree a strict timetable with you and will require monthly updates on progress. I should make it clear that if progress falters and it appears that it is not reasonably possible to make the submitted Plan both legally compliant and sound, including where a lack of appreciable progress is being made, I would prepare a report which sets out the reasons why, and recommend that the Plan is withdrawn.
27. I look forward to your prompt response as to how the Council wishes the examination to proceed. If the Council chooses to progress the Plan, I would want to achieve early agreement as to the work needed, provision of resources, and a detailed program for it being done so as to provide certainty.
28. I am not seeking a response to this letter from any other parties and will not receive any comments on it. Nevertheless, I am happy to provide any necessary clarification to the Council via the Programme Officer. The Council should make this letter available to all interested parties by adding it to the Examination website.

Yours sincerely

Philip Lewis

INSPECTOR

**Annex 3 - ID 21**

**Tandridge District Council. Examination of 'Our Local Plan:2033'**

**Inspector:** Philip Lewis BA(Hons) MA MRTPI

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Mr David Ford

Chief Executive

Tandridge District Council

24 March 2022

Dear Mr Ford

**Examination of the Tandridge District Council Our Local Plan: 2033**

1. Thank you for your letter dated 18 March 2022 (TED54) regarding the examination of the Tandridge District Council Our Local Plan: 2033 (the Plan) in which you seek some clarifications on technical points set out in my letter of 7 February 2022 (ID-20).
2. As I have stated previously, one of the challenges with a very long examination is that parts of the evidence base may need updating, which may protract the process further. In this regard the Procedure Guide for Local Plan Examinations says;

'Evidence base documents, especially those relating to development needs and land availability, that date from two or more years before the submission date may be at risk of having been overtaken by events, particularly as they may rely on data that is even older. As a minimum, any such documents should be updated as necessary to incorporate the most recent available information. But this may not be necessary for evidence documents on topics that are less subject to change over time, such as landscape character assessments'.

3. I have already set out the matters I wish to consider at further hearings and have indicated where updated evidence should be provided. My intention is to reach a position where I can conclude on whether it is possible to recommend main modifications to make the submitted plan sound, and if so, then progress with the preparation of main modifications. Alternatively, if I were to conclude that the Plan could not reasonably be made sound through main modifications, I would issue my report recommending that the Plan is withdrawn, thereby ending the examination.
4. In the normal course of events, a plan is submitted for examination, along with the evidence base which is tested through the examination, and available for representors to comment upon. Whilst in this letter I identify parts of the evidence base which may require updating as you have requested, any updated evidence would be considered in the examination, and may in itself, indicate that further changes to the Plan are necessary to address matters of soundness.
5. Therefore, I list in the Appendix to this letter, the evidence base documents which I consider should be reviewed and updated as necessary having regard to their subject matter, age and the changes in circumstances since the Plan was submitted. In listing these, I have had regard to your letter TED51 and the accompanying appendix. Please note that this list may not prove to be exhaustive. These updated documents should be available when I publish my matters, issues and questions for the further hearings. This is in the interest of fairness to all representors and to save time at the hearings. If the Council considers it is not necessary to update any of these documents, then you will need to explain why they are still relevant and up to date.
6. The updated evidence is necessary for the further hearings, and to inform the preparation of any proposed main modifications necessary for soundness. The updated evidence should however be proportionate, as the plan should be based upon adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects for the area as per paragraph 158 of the National Planning Policy Framework 2012 (NPPF 2012).
7. In respect of your query regarding the proposed South Godstone Garden Community (Policy SGC01), I can confirm that I wish to establish whether the site may be considered as being either deliverable or developable (within the plan period) as per the definitions in footnotes 11 and 12 of the NPPF 2012. The areas I wish to have updated evidence on concern viability, when would the proposed Garden Community realistically deliver the first homes and would

that be in the plan period, and what is the realistic rate of delivery of homes which should be assumed?

8. For the avoidance of doubt, I have requested updated timescales for the preparation of the Area Action Plan (AAP), not the AAP itself. This matter was discussed previously at the hearings and for example, the modelling undertaken for TED24(B) (Avison Young delivery options report June 2019) assumed adoption of the AAP in 2023 and development commencing in 2027. I also wish to consider the further evidence concerning the mitigation measures needed for Junction 6 of the M25 as set out in ID-20.
9. Should the technical work the Council needs to undertake change the assumptions which underpin the assessment of exceptional circumstances for altering the boundaries of the Green Belt, then the relevant parts of the Green Belt assessment should be updated.
10. I should take this opportunity to mention that there are a number of actions that I identified in my preliminary conclusions letter dated 11 December 2020 (ID-16). These include, amongst other things, your assessment of the significance of the heritage assets in respect of Policy HSG06: Land off Salmons Lane West, Caterham.
11. I trust that you will be able to complete your response to my letter ID-20 so that we can agree the work needed, and a detailed program for it being done to provide certainty. It would be particularly helpful if we could agree dates for the further hearings to ensure that both the Programme Officer and I are available.
12. I am not seeking a response to this letter from any other parties and will not receive any comments on it. Nevertheless, I am happy to provide any necessary clarification to the Council via the Programme Officer.
13. I have issued this letter prior to the period of sensitivity for civil servants in relation to the local elections to be held in May 2022, as defined in the online document 'May 2022 elections: guidance on conduct for civil servants'.<sup>5</sup> Whilst the Council should make this letter available to all interested parties by adding it

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<sup>5</sup> <https://www.gov.uk/government/publications/election-guidance-for-civil-servants/may-2022-elections-guidance-on-conduct-for-civil-servants-html>



to the examination website, it is for the Council to decide when this should be done within the provisions of the legislation governing publicity by local authorities during the period of heightened sensitivity before elections.

Yours sincerely

Philip Lewis

INSPECTOR

## **Appendix. Evidence base documents to be reviewed and updated as necessary**

### **The Economy**

To provide a clear understanding of business needs within economic markets operating and across the area. Documents include:

ECRT1 -Tandridge Strategic Economic Assessment 2018

ECRT4 - Tandridge Economic Needs Assessment Update 2017

### **Housing, site assessments & delivery**

To provide a clear understanding of housing need and supply in the area. Documents include:

HNS10 - Addressing the Needs of All Household Types for Tandridge Updated 2018

HNS11 - Affordable Housing Needs Assessment for Tandridge Updated 2018

HNS12 - Analysis of Market Signals for Tandridge Updated 2018

Housing land supply calculations and the housing trajectory

SAD1 - Housing and Economic Land Availability Assessment Interim Report 2019

SAD14 - Tandridge District Council Gypsy and Traveller Accommodation Assessment 2017

### **Infrastructure and viability**

To assess the quality and capacity of infrastructure and its ability to meet forecast demands. Documents include:

INF1 - Tandridge District Infrastructure Delivery Plan 2019

INF2 - Tandridge District South Godstone Garden Community Financial Viability Assessment 2018

INF12 - Tandridge District Strategic Highway Assessment Mitigation 2018

INF15 - Tandridge Draft Local Plan Viability Assessment 2018

INF16 - Tandridge District Strategic Highway Assessment Scenarios 2A F 2018

The updating of the assessment for educational requirements should also be undertaken as per ID-16.

### **Ecology and environmental quality**

A desktop review should be undertaken in respect of the site based ecological assessments relating to the proposed allocations to assess if they require updating.

### **Other matters**

The Local Development Scheme would require to be updated to reflect the updated programme for the Plan and the AAP.

The Sustainability Appraisal and Habitats Regulations Assessment should be undertaken in respect of any proposed main modifications in due course.

**Annex 4 - ID26**

**Tandridge District Council. Examination of 'Our Local Plan:2033'**

**Inspector:** Philip Lewis BA(Hons) MA MRTPI

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Mr David Ford

Chief Executive

Tandridge District Council

10 August 2023

Dear Mr Ford

**Examination of the Tandridge District Council Our Local Plan: 2033**

1. I am writing following the procedural meeting held on 27 July 2023, regarding the examination of the Tandridge District Council Our Local Plan: 2033.
2. I had set out previously that despite the length of this protracted examination, the significant soundness concerns that I had identified in my post hearings advice letter of December 2020 appear no nearer to being resolved. In such circumstances, I should find the Plan unsound, and that it is not possible to make it sound by making main modifications to it, and that I should recommend non-adoption of the Plan.
3. At the procedural meeting, I reiterated my significant soundness concerns and provided the opportunity to the Council to set out its thoughts on how procedurally, the examination could progress.
4. I thank the Council for its work in preparing its document for the procedural meeting. From what I have read and heard, I acknowledge that the Council has been working to recruit new planning staff to progress the Plan, and its commitment to getting the Plan in place. However, our discussions around the programme provided by the Council have served to illustrate a number of procedural challenges in progressing the Plan in the way suggested. In addition, I can only recommend changes to the submitted Plan which are necessary for soundness, which inevitably shapes the possible options for progressing the Plan to adoption.
5. Consequently, my view is that the Council's suggested way forward would only serve to protract the examination further and that it raises further procedural concerns. I therefore remain of the view that it is not possible to make the Plan sound by making main modifications to it, and that I should recommend non-adoption of the Plan.

6. In reaching my view I have taken into account a number of factors. I would set out the reasons why I would recommend non adoption of the Plan in my report of the examination in due course. However, at this stage, it would be helpful if I were to outline some of the significant procedural points arising from the Council's suggestions.
7. There remain significant unanswered questions concerning highway capacity and there continues to be much work to do in this regard. The refusal, after the close of the hearings, of the application for funding for transport infrastructure to the Housing Infrastructure Fund was a significant change in circumstances for the Plan. Since that time, the Council, working with other bodies including with National Highways, has identified a potential solution to capacity at J6 of the M25, but that remains untested, and the capacity issues relating to the A22 remain unsolved.
8. The issue of highway capacity is also significant in determining the amount of development which could be accommodated in the district in the plan period, without residual cumulative impacts of development being severe. I am still not in a position therefore to determine whether or not, the Plan should meet objectively assessed needs through the application of paragraph 14 of the National Planning Policy Framework 2012 (NPPF).
9. Procedurally, transport assessment and modelling work would need to be completed, which the Council indicate would be towards the end of 2023, then I would need to review it, draft Matters, Issues and Questions and invite responses from the Council and representors, before a hearing later in the year. My findings from that hearing would then inform the future course of the examination. The outcome of any such hearing is of course unknown. That work alone is likely to run toward the middle of 2024, when the Council has an election, which because of the period of sensitivity for the election, would inevitably have an effect on the progress of the examination.
10. The Council has suggested a possible way in which the spatial strategy could be altered. I shall not comment on the merits of that, but it is clear to me, that the need or otherwise to amend the spatial strategy would only be confirmed once the highway capacity work is completed. Such work needed for the spatial strategy would not take place until the second half of 2024, and may involve what are in effect plan making activities, should it become apparent that the strategy of the Plan should be changed for soundness.
11. At the procedural meeting, the Council said that it had not yet revisited the sustainability appraisal in regard to its suggested way forward for the Plan. Given the uncertainty around the spatial strategy, and that the further consideration of highway capacity issues could give rise to a fundamental change for the Plan, there would need to be a revisiting of reasonable alternatives in such circumstances. I referred to the case of Aireborough Neighbourhood Development Forum v Leeds City Council and others [2020]

EWHC 1461 (Admin), particularly in respect of the need to consider reasonable alternatives where there is a fundamental change in circumstances. I also outlined that updates to the sustainability appraisal should not be used as an exercise to justify a predetermined strategy. Procedurally, this would be particularly challenging as the work would be undertaken in an examination, and not as part of the plan making process.

12. The Council's Gypsy and Traveller Accommodation Assessment 2017 (SAD14) has a base date of March 2016 and requires comprehensive updating. The preparation of a new assessment will take time, and would need to take into account *Smith & Others v SSHCLG & NW Leicestershire DC* [2021] EWHC 1650 (Admin), and be tested through the examination. Any identified need should be met accordingly, consistent with NPPF 2012 paragraph 50, with sites and alternatives considered as appropriate and subject to consultation.
13. The plan period of the submitted Plan is 2013 – 2033. The submitted Plan is therefore halfway through the plan period. Given the amount of work which remains to be undertaken, it could take several more years before a sound Plan could emerge, if at all possible. In these circumstances, the plan could not identify a supply of housing sites for 10 years as per NPPF 2012 paragraph 47, and consequently, the plan period is a matter which should be given further consideration. This is likely to have significant procedural implications, should it be necessary for soundness for me to recommend that alterations are made to the plan period. Depending on the eventual housing requirement, there may be under provision of housing in the plan period to date which would have to be accommodated in the remaining years.
14. The protracted nature of the examination means that much of the evidence base is out of date and related changes, such as that to the Use Classes Order, mean that changes to the Plan have become necessary in the interests of effectiveness. The prospect of further things changing will not diminish with the passage of time.
15. The Council has offered a potential way forward for the examination. However, it is clear to me that given the nature of the soundness issues which need to be addressed, and the effects of the protracted examination, there is no simple or rapid route to soundness. Indeed, the Council's approach would only serve to protract the examination further and could give rise to a situation where further uncertainty arises.

### **What next for the examination?**

16. The next stage is therefore for me to write my report of the examination within which I would recommend that the Plan is unsound and that it is not adopted. That would bring the examination to a close. My report would be focused on setting out why the submitted Plan is unsound and should not be adopted,

broadly following the format set out in the Procedure Guide for Local Plan Examinations.

17. Having regard to the Council's comments at the procedural meeting regarding the best use of public money, along with my obligations under the Civil Service Code, I consider it appropriate to suggest that the Council may wish to consider withdrawing the Plan before any such recommendation was made. This would save the expense associated with me writing and issuing a report of the examination.
18. In order to assist me in terms of work planning, it would be helpful if the Council would advise on how it wishes to proceed. I would appreciate your response by the end of September 2023, or if not, please advise me when you would be in a position to respond.
19. On receipt of this letter, the Council should make it available to all interested parties by adding it to the examination website. However, I am not seeking, nor envisage accepting, any responses to this letter from any other parties to the examination at this stage.

Yours sincerely

*Philip Lewis*

INSPECTOR

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