6 September 2019

Dear Mr Banks

Tandridge Local Plan - INSPECTOR’S INITIAL MATTERS, ISSUES AND QUESTIONS
Andrew Black Consulting on behalf of Oxted Shareholders

Matter 1: Procedural/legal requirements

I write on behalf of the Oxted Shareholders in response to the Inspector's Initial Matters, Issues and Questions (MIQs) for the Tandridge Local Plan in relation to a number of sites in Oxted. Andrew Black Consulting (ABC) will be appearing at the examination on behalf of the Oxted Shareholders who hold under common ownership but separate companies the following omission sites against which Regulation 18 and 19 statements have been previously made:

- Land West of Chalkpit Lane, Oxted (OXT035) - Oxted Land Limited
- Chichelle Road, Oxted (OXT006) - Oxted Residential Ltd
- Land at St Mary’s Church (OXT034 - Adjoining OXT006) - Oxted Developments 2008 Ltd
- Land at Barrow Green Road, Oxted (Also known as Stoneyfields) (OXT007) - Oxted Developments 2007 Ltd

Issue: Whether all Statutory and Regulatory requirements have been met?

Duty to Cooperate

1.1 Is there clear evidence that, in the preparation of the Plan, the Council has engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies on strategic matters and issues with cross-boundary impacts in accordance with section 33A of the Planning and Compulsory Purchase Act 2004, as amended [the 2004 Act]? Is there clear evidence that the Council has done all it reasonably could to maximise the effectiveness of plan preparation by cooperating with all other relevant bodies, particularly in respect of addressing unmet housing need?

1.1.1 There is concern that TDC need to undertake further work in regard to their Duty to Co-operate through and further co-ordination and collaboration is required with neighbouring authorities. The particular area of concern is the lack of agreement on is the provision of unmet housing need. With TDC proposing a housing target some
3,344 units below the OAN, no solutions have been agreed as to how that unmet need will be met.

1.1.2 The 'Duty to Cooperate Update 2018' (SDTC9) document is undated but the text within it suggests a date of June 2018. At the time of submission of this matters statement, TDC has presented no updated evidence to the inspector which demonstrates that discussions with relevant DTC parties has been an on-going matter and efforts to seek solutions to the pressing matter of unmet housing need have been made.

1.1.3 It is therefore considered that further work should be presented at the time of the hearing sessions and further consideration is given to meeting unmet housing need through adequate co-operation with adjoining authorities.

**Sustainability Appraisal**

1.2 Is the Sustainability Appraisal (SA) adequate?

1.2.1 No. For the reasons as set out below the SA has failed in its methodology to consider reasonable alternatives. There are a significant number of areas within the SA that are inadequate in terms of the approach to the assessment of available options.

1.2.2 An example of this is in the 'Volume 2: Options Assessments' document and section 5.6 'SA of Options: Relationship of New Residential Allocations to Existing Built Form /Settlement Boundaries'. Here, only two options are considered and assessed:
  - Option 1: Allocate development sites anywhere and without regard to existing built form / settlement boundaries
  - Option 2: Only allocate development sites where adjacent to existing built form / settlement boundaries.

1.2.3 It is considered that not only does this represent a binary choice of options where a broader range should have been considered; it is also a polarised view of planning for the borough.

1.2.4 The 'Preferred Strategy' document (March 2017) (SPS2) sets out a helpful diagram on page 11 of the document which illustrates TDC’s 'starting point' with regard to the preferred strategy. It separates matters out into 'what do we need', 'what do we want' and 'what are we able to do'. In seeking to avoid any conjecture, further scrutiny of the 'what are we able to do' approach is required as it is clear that this has come from a politically motivated standpoint of the council. This approach has then been continued in the SA which has inevitably restricted the approach the council has taken to the assessment of the strategy to meet housing need in full.

1.2.5 This is just one of a number of examples which will require further scrutiny by the inspector during the hearings. It is considered that TDC has not taken a positive approach to meeting the pressing need for housing and assessment of that through the SA, nor is the approach taken justified. This is therefore a matter which goes to the heart of the soundness test in terms of paragraph 182 of the NPPF (2012) and requires major modifications and further consultation to remedy.
1.3 Has the SA been undertaken on the basis of a consistent methodology and is the assessment robust?

1.3.1 Under the PPG, paragraph 12-016 states that (emphasis added):

'Every Local Plan must be informed and accompanied by a Sustainability Appraisal. This allows the potential environmental, economic and social impacts of the proposals to be systematically taken into account, and should play a key role throughout the plan-making process. The Sustainability Appraisal plays an important part in demonstrating that the Local Plan reflects sustainability objectives and has considered reasonable alternatives.'

1.3.2 This means that an SA must be prepared in tandem with other aspects of the Local Plan and inform the spatial strategy. It must provide clear and robust justification to evidence the chosen approach and explain how the LPA intends to meet its OAN alongside the impacts of other objectives.

1.3.3 The SA documents which form part of TDC's evidence base show, somewhat confusingly, how TDC arrived at its chosen spatial strategy. Seven initial approaches were identified, including Garden Villages. Six of these approaches are analysed within the SA (July 2018) against the sixteen sustainability appraisal objectives (the seventh approach is a 'do nothing' approach which was discounted due to it acting as a 'control' and therefore not a reasonable alternative).

1.3.4 Within the Spatial Approaches Topic Paper (December 2015) (SPS4), all approaches bar 'Approach 6 - Garden Communities' give some indication as to the level of housing each approach would provide. 'Approach 6' does not set out what housing numbers could be provided if this approach was adopted. Instead it advocates a hybrid approach which mixes development at the edge of settlements with a new settlement.

1.3.5 The 'Preferred Strategy' document (March 2017) (SPS2) sets out that TDC's preferred strategy is a hybrid of Approaches 3 and 6. Approach 3 is the provision of homes within the inset areas in the district and sites that are currently in the Green Belt around the main urban settlements and semi-rural service settlements.

1.3.6 Following the decision to use a hybrid approach, a further five hybrid approaches are analysed in more detail within the SA (July 2018). These are:

- Approach 7a - Tier 1 and 2 Settlements plus 'New/extended settlement'
- Approach 7b - Tier 1 and 2 Settlements plus 'New/extended settlement' all at a higher density.
- Approach 7c - Tier 1 and 2 Settlements at standard density plus 'New/extended settlement' at higher density.
- Approach 8a - Tier 1, 2 and 3 Settlements plus 'New/extended settlement' all at standard density.
- Approach 8b - Tier 1, 2 and 3 Settlements plus 'New/extended settlement' all at higher density.
1.3.7 The SA (2018) sets out that Approach 7a is the most sustainable across a range of factors and this is what is taken to be the preferred approach.

1.3.8 Nowhere within the SA does it set out clearly and explicitly what housing numbers could be expected from each of these five approaches. Therefore it is difficult to determine how TDC has reached its housing target and to what extent the benefits of increasing the supply of housing have been given weight within the appraisal.

1.3.9 Approach 8b is described as being the ‘maximum capacity’ approach but with no housing figures attached to this it is difficult to determine where this ‘maximum capacity’ scenario fits on the scale in relation to the OAN set out in the 2015 SHMA and the standardised methodology target.

1.3.10 It is therefore impossible to determine which of these five approaches are reasonable or unreasonable in line with national policy and thus which should be the preferred approach to inform the Local Plan.

1.4 Has the SA taken into account the reasonable alternatives and has sufficient reasoning been given for the rejection of alternatives?

1.4.1 As set out above, the SA has not taken into account reasonable alternatives where the council could achieve its housing need in full.

Habitats Regulations Assessment

1.5 Has the Habitats Regulations Assessment been undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 and the People over Wind & Sweetman v Coillte Teoranta judgement C-323/17?

1.5.1 No comments

Local Development Scheme

1.6 Is the Plan compliant with the Council’s Local Development Scheme in terms of its form, scope and timing?

1.6.1 The Local Development Scheme (OTH2) is dated December 2018 but is inaccurate and requires updating. The timetables for the Local Plan as set out on page 10 states that the examination will take place in April-June 2019 and adoption would be in October-December 2019. Given that examination will not now be taking place until October-December 2019, allowing a similar timeframe would indicate adoption in April-June 2020.

1.6.2 Given available resources and requirement for the local plan to be adopted first, TDC should review the timetable for the preparation of the South Godstone Garden Community Area Action Plan which was scheduled to begin in October-December 2020. This is likely to have an impact on delivery of dwellings in accordance with the housing trajectory.


**Community Involvement**

1.7 Has the Council complied with the requirements of section 19(3) of the 2004 Act and Regulations 18 and 19 of the Town and Country Planning (Local Planning (England) Regulations 2012 with regard to conducting consultation in accordance with their statement of community involvement?

1.7.1 Regulation 18 (3) of the Town and Country Planning (Local Planning (England) Regulations 2012 states that:

> In preparing the local plan, the local planning authority must take into account any representation made to them in response to invitations under paragraph (1).

1.7.2 In line with this requirement TDC produced the 'Statement of Consultation Local Plan Issues and Approaches Consultation Regulation 18 2016' (SCONS). This sets out a list of responses received against policies and allocated site and actions from the council. It does not, however, make any reference to representations made against omission sites from the plan or the consideration by TDC of these sites in the context of 'reasonable alternatives'.

1.7.3 Section 19(3) of the 2004 Act states that:

> In preparing the local development documents (other than their statement of community involvement) the authority must also comply with their statement of community involvement.

1.7.4 Section 19(4) of the 2004 goes onto state that:

> But subsection (3) does not apply at any time before the authority have adopted their statement of community involvement.

1.7.5 The TDC Statement of Community Involvement was adopted in September 2015 and was therefore relevant at the time of the regulation 18 and 19 consultations taking place. Paragraph 3.26 of the SCI states that:

> The comments received through consultation, and how the Council responds to them, is a key part of the plan-making process and will be a factor in determining the soundness of the document which will be assessed at Examination. As such, following each consultation, the Council will collate the responses, consider the comments and prepare a Statement of Consultation.

1.7.6 As already stated, TDC did prepare a Statement of Consultation but did not take into account responses received on omission sites. It is therefore considered that TDC has failed in its duty to take into account these responses in the context of regulation 18 (3) of the regulations and also section 19 (3) of the 2004 act.

1.7.7 I can confirm that we will be seeking to appear in person for matter 1 at the hearing sessions and would be grateful for your confirmation of this.
Yours Sincerely

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