Hearing Statement: Matter 1 Procedural/legal requirements

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

Duty to Cooperate

Question 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 We have particular concerns about duty to co-operate in the context of:

   a. the way in which the Council has addressed Housing Need;
   b. Infrastructure;
   c. the proposals for a new Garden Community.

1.2 As the PPG makes clear, although the duty to co-operate is not a duty to agree, it requires councils to “engage constructively, actively and on an ongoing basis to maximise the effectiveness of Local Plan preparation in the context of strategic cross boundary matters”. Co-operation “should produce effective and deliverable policies on strategic cross boundary matters.”

1.3 Chapter 6 completely fails to provide any kind of demonstration that the Council has complied with the duty. Covering little more than a page, it simply identifies the duty, and refers to the various Duty to Co-operate Statements which have been produced. At the time of the Regulation 19 consultation, only 2 of 11 proposed Statements of Common Ground were actually agreed. At the time of writing, we have still been unable to find Duty to Co-operate Statements between the Council and Reigate and Banstead Borough Council, between the Council and Croydon Council, and between the Council and Bromley Council.

1.4 Nor is this vacuum filled by the Duty to Co-operate Statements themselves. Hence, on key issues such as meeting housing need, section 4 of the 2018 Update (STDC9, paragraph 3.32) consistently repeats the mantra that the Council “has been continuing to prepare and collate evidence and prepare a Regulation 19 Local Plan” and that “In addition to the
statutory consultation requirements, the Council shared a draft of the Regulation 19 with Duty to Co-operate bodies and also explained the spatial strategy and sites allocated at several meetings”, and refers to ongoing “liaison” and meetings. However, when reference is made to the Minutes of those meetings (as set out in the appendices to the 2018 Update, STDC9) there is no indication that either Tandridge or its neighbours have done anything more than bring each other up-to-date with the progress of their own local plans and the difficulties they are facing. There is no indication that any of these discussions has led to a serious attempt by any authority to identify solutions to assist neighbours, or to serious questioning or discussion of any particular authority’s position, still less a revisiting of the assumptions on which any draft plan has been based. There is nothing in any of the minutes to suggest that there has been any concerted effort by any of the parties to find a solution to the problems which have been identified.

1.5 To the extent that there has been any discussion of Housing Need, the Council has approached this on the basis that it cannot meet its own OAN, and has therefore needed to ask adjoining authorities whether they can assist. For reasons we explain in detail in Section 11.1 (Objectively Assessed Needs) of Chapter 11 of our Regulation 19 submission, this ignores the fact that the vast majority of the “housing need” which Tandridge has identified as part of its OAN comes from inward migration, and thus involves Tandridge meeting the needs of surrounding areas. As a result, it is not Tandridge which should be approaching the neighbouring authorities to ask for assistance, but the neighbouring authorities which should be asked to take the need from Tandridge which was likely to be theirs in the first place. Consequently, the Duty to Co-operate discussions have all been “back to front”. This is extremely important, given that Tandridge is more heavily constrained by Green Belt than any other authority in the country.

1.6 There is no evidence of a proper understanding of the nature of the strategic issues which need to be addressed. There is no evidence that travel to work patterns have been discussed or addressed and no evidence that the heavy reliance of Tandridge District on neighbouring areas for employment, services and infrastructure, including health care and schools, has been discussed or addressed. The evidence documents show an existing reliance by Tandridge District on services and infrastructure located in those neighbouring areas. This is consistent with Tandridge being a predominantly rural district with no recognised, sustainable economic centres. Yet there is no evidence that the Council has recognised the impacts on other Districts arising from the Plan and it has not provided any evidence of how it will co-operate with neighbouring authorities to deliver the services and
infrastructure necessary to support the Plan. All the indications are that Tandridge has been
looked at in isolation from its neighbours which is especially unsatisfactory given the highly
porous nature of the District and its parastic relationship with its neighbours on which it relies
for jobs and services. Details of this reliance are given in para 2.9 of Chapter 2 and in
Chapter 11 of our Regulation 19 submission.

1.7 There is no evidence that infrastructure requirements have been properly quantified,
discussed or addressed in the duty to co-operate. There is evidence that they have not. For
example, in its Statement of Common Ground (STDC6, published in December 2018 after
the Regulation 19 consultation), Surrey County Council explains that substantial elements of
the infrastructure included in the Infrastructure Delivery Plan as funded or part funded by
Surrey County Council have not been agreed and should be removed from the IDP. In the
case of policy HSG13, the County Council has made clear it will not support the provision of
an all through primary school as part of this site identified as a ‘Strategic Opportunity’.  
Nevertheless, the Council is not removing the school from the policy (STDC6, paragraphs
3.10 and 3.11). The Statement of Common Ground indicates that very little discussion has
taken place about necessary infrastructure and how it would be funded.

1.8 We also note that the Local Enterprise Partnership Coast to Capital commented on the
Regulation 19 (ID 1182650) saying that the Plan was unsound and stating that: “The
unsoundness is a consequence of the statements that confirm sources of funding from
Coast to Capital Local Enterprise Partnership, through the Local Growth Fund and Regional
Growth Fund, for the new proposed Garden Village infrastructure. Both of the above sources
of funding are depleted and no funding is currently or planned to be, allocated toward the
Garden Village development from Coast to Capital.”

1.9 We are particularly concerned about the lack of any meaningful discussion between the
Council and its neighbours in relation to the proposed new Garden Community.  This is a
matter which we understand will be commented on in greater detail by Godstone Parish
Council. There is no evidence that the cross-boundary implications of the Garden
Community for other areas have been discussed or addressed. These include, but are not
limited to, the traffic impacts of 4,000 new homes on the A22 corridor and rural roads as
residents access services and employment centres in neighbouring districts, and the extra
pressure that will be put on East Surrey Hospital which provides emergency services for
residents of Tandridge District but is situated in the adjacent Reigate and Banstead Borough
Council’s area.
Sustainability Appraisal

*Question 1.2 Is the Sustainability Appraisal (SA) adequate?*

1.10 No. The Sustainability Appraisal is not a robust basis for assessing reasonable alternative development options or the long term planning for Tandridge because important sustainability factors that should have been taken into account have been ignored from the very start. These include travel to work patterns and the existing dominance of the car for access to employment, services and infrastructure, access to relatively cheap and frequently available public transport, and the existence of large and expanding employment centres close to the northern and western borders of the District – this latter means that no account has been taken of jobs near homes.

1.11 The NPPF is clear that unsustainable travel patterns should not be exacerbated and access to jobs near homes should be available to ensure sustainability. The Council’s failure to take account in the SA of existing travel to work patterns and to consider a development distribution option based on jobs near homes - that is a north and west perimeter strategy for development - undermines sustainability and so is contrary to the NPPF.

1.12 The vast majority of the proposed population increase is due to projected high levels of net inward migration. The SA fails to recognise the adverse impacts of the overwhelming amount of projected inward migration on existing communities, services and infrastructure – both within and outside of the District.

*Question 1.3 Has the SA been undertaken on the basis of a consistent methodology and is the assessment robust?*

1.13 No. The Settlement Hierarchy which informs the SA is inconsistent in its treatment of the car. While the Settlement Hierarchy documents ignore travel to work patterns and the dominance of the car, they also boost sustainability rankings where settlements have access to the strategic road network. This approach is taken despite the recognition by the Council in the Settlement Hierarchy that this approach undermines sustainability and so is contrary to the NPPF.

This is explained in the following extracts from the Settlement Hierarchy Methodology – SBC8, paragraph 7.128 (ed: emphasis added):
Travel to work patterns. The NPPF is clear that unsustainable travel patterns should not be exacerbated and access to jobs near homes should be available to ensure sustainability...

Whilst this certainly is a valid consideration in terms of developing sustainable communities, it is not realistic to assume that if there is a local job, it will be taken by a local person. Further, Tandridge District has excellent links to London where the highly skilled residents can find a variety of well-paid positions and it is not plausible to think that the local area or surrounding districts and boroughs can compete with this.

Employment is about choice and therefore, consideration of travel to work patterns will not produce sound conclusions that would influence the settlement hierarchy.

Page 63: Justification for omission.

Car ownership/Usage

An over reliance on the private vehicle is often considered to be a factor which undermines sustainability. Whilst areas which need to rely on the private car due to a lack of public transport are not ideal, the decision to use a car is somewhat subjective. The use of private vehicles can be determined by choice with many choosing to drive despite there being buses or trains. ........

...For these reasons, this aspect was not accounted for in the assessment process.

The Council’s decision to ignore travel to work patterns and car ownership/usage is reaffirmed in its June 2018 Settlement Hierarchy Addendum (SBC1, paragraph 4.5).

1.14 However, in another part of the Settlement Hierarchy Methodology (SBC8), access to the Strategic Road Network is used to increase the sustainability ranking, as follows (Table 2, Scoring Mechanism, Page 25):

Whilst more sustainable modes of transport are encouraged, the use of the private car cannot be avoided and remains a preference for many which is often the case in more rural areas where public transport can be more limited or is impractical, particularly for businesses. With this in mind an element of pragmatism must be employed and those settlements with access to the key roads on the Strategic Road Network (SRN) will be considered more sustainable than those with non-strategic road access. Weighting has been attributed in recognition of this as an asset to sustainability.

This approach is inconsistent because in the first set of paragraphs the dominance of car travel in travel to work patterns is ignored because it is a “choice”, while in the second it is argued that the “use of the private car cannot be avoided” and so access to the strategic road network is considered an asset to sustainability. The approach also overstates sustainability because the factors that are recognised to undermine sustainability are ignored
in the parts of the analysis which would reduce sustainability, and then later (perversely) used to improve rankings. The consequence of this biased and inconsistent methodology is that both Tandridge itself and the individual settlements are shown to be more sustainable locations than they actually are.

1.15 The summary of the significant social, environmental and economic effects of the policies is not robust and does not reflect the evidence base. Examples are:

1.15.1 In respect of Objective 2, health and wellbeing, the SA summary (MD6, paragraph 6.2.2) states that the plan effects are expected to be positive. However, the SA has not considered the adverse effects of the huge amount of inward migration or the unsustainable travel patterns embedded in the Plan. The evidence shows that the Settlement Hierarchy has not prioritised locations accessible to health facilities. For example, Oxted is at the top of the Settlement Hierarchy yet there are no hospitals, health hubs or mental health provision in Oxted. As evidenced in paras 11.73 – 11.77 in Chapter 11 of our Regulation 19 submission, in the whole Oxted area, there is just one overstretched GP surgery serving the whole of Oxted, Hurst Green and Limpsfield.

1.15.2 In respect of Objective 4 “to reduce the need to travel encourage sustainable transport options and improve accessibility to all services and facilities”, again, travel to work patterns and the existing dominance of the car for access to employment, services and infrastructure have been ignored and so the assessment is not robust. To accurately measure performance against this objective, the SA should be revised to give weight to jobs near homes, to lower travel costs where there are Zone 6 stations, to access to a frequent “metropolitan” level of bus service, and to access to health facilities. More details are given in paragraphs 11.104 – 11.107 and paras 11.78 – 11.92 of Chapter 11 of our Regulation 19 submission.

1.15.3 In respect of Objectives 6 and 7 which deal with economic growth and providing employment opportunities to meet the needs of the local economy, the SA summary concludes that the Plan has positive effects for these. But the evidence base does not support that conclusion and instead shows that the Council is relying on jobs outside the District to sustain the proposed OAN. The Tandridge Strategic Economic Assessment (ECRT1) carried out in November 2018 after the Regulation
19 consultation cites the 2017 GL Hearn Economic Needs Assessment (ECRT4) stating:

2.21 This identified that Tandridge within the Heart of the Gatwick Diamond, centred on Gatwick Airport possesses attributes which provide the opportunity for considerable future economic growth. However, the economic focus of the area largely faces away from the district with strong office markets in Croydon and Crawley, and airport related businesses located predominantly in Crawley and Horsham.

1.15.4 The SA summary states: “Through the Plan (Policies TLP20, 21, 22) and in support of the Council’s Economic Proposition (2017), ambitious commitments developing a thriving economy with high-value, high-tech businesses are demonstrated”. However, the policies themselves read simply as a list of things to do or that it would be nice to have but they do not include any criteria by which delivery can be achieved as required by the PPG (12-002) and NPPF paragraph 154. The Economic Proposition 2017 is a Council adopted document completely outside of the planning system. It is not required to be sound or to be examined or scrutinised in any way and so policies that are required to be sound should not rely on it for decision making. With regard to the regeneration of Oxted, only one of the 4 key projects is now deliverable which is the redevelopment of an old gas holder site by Berkeley Homes for 111 market rate flats. As detailed in our response to question 8.47 and Policy TLP29, the other 3 projects - that is the Ellice Road multi-storey car park, the urban redesign scheme for Station Road East and West, and the creation of a business hub are not going ahead. We see no justification for recording positive effects for the Objectives 6 and 7.

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

1.16 No. As explained in detail in Chapter 11 of our Regulation 19 submission, not all realistic options have been explored.

**Suggested modification**

1.17 To ensure that all reasonable alternative development options are assessed, we suggest that a new SA is carried out which takes into account travel to work patterns and the existing dominance of the car for access to employment, services and infrastructure. The new SA should also take into account ease of access to relatively cheap and frequently available public transport, and the proximity of existing large and expanding centres of
employment – this last point would address the national policy objective of providing jobs near homes.

Climate Change

*Question 1.8 Are the policies of the Plan designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Act?*

1.18 No. The failure to take into account travel to work patterns and the existing dominance of the car; ease of access to relatively cheap and frequently available public transport; the proximity of existing large and expanding centres of employment to ensure jobs near homes, means that the policies of the Plan do not result in a distribution of development that contributes to the mitigation of climate change. They exacerbate it.