Tandridge Local Plan Examination - Statement to Matter 1: Procedural / Legal Requirements
Berkeley Strategic

September 2019
1. **Introduction**

1.1 This Statement has been prepared on behalf of Berkeley Strategic in response to Matter 1 of the Examination into the emerging Tandridge Local Plan 2033.

1.2 Berkeley Strategic are promoting the land at Roffes Lane, Caterham, which is identified in the Housing and Economic Land Availability Assessment (HELAA, 2017/2018) as site Ref. CAT042. The site has been actively promoted for development via the ongoing Call for Sites process and through previous consultations on the emerging Local Plan, including the Regulation 18 Issues and Options Consultations undertaken in both February 2016 and in summer 2017, and the Regulation 19 consultation in September 2018.

1.3 The site is located at a sustainable location, with Caterham identified as a tier 1 settlement within the emerging Local Plan. The site, as with much of the District, is located within the Green Belt and is not proposed to be allocated. CAT042 represents a suitable location for growth. The proposed development could accommodate approximately 160 dwellings, supporting infrastructure and facilities, as well as open space and green infrastructure, to be provided across this 12.73 hectare site.

1.4 We are aware that the Inspector has indicated that he will not be considering the merits or otherwise of omissions sites as part of the Examination. However, consistent with their previous representations, our client considers that the emerging Local Plan is fundamentally unsound, that the housing requirement should be increased and additional sources of supply identified.

1.5 This Statement should be read alongside previous representations on such issues, and their related Appendices.
2. **Response to Matter 1: Procedural / Legal Requirements**

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

**Duty to Cooperate**

**Q1.1** 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 could reasonably do to maximise the effectiveness of plan preparation by cooperating with all other relevant bodies, particularly in respect of addressing unmet housing need?

2.1 Aside from any wider comments set out in this statement regarding the Duty to Cooperate, we note the Inspector’s question refers to cooperation regarding the matter of unmet need.

2.2 The Draft Local Plan at paragraph 6.2 and 6.3 sets out the Council’s approach to the Duty to Cooperate, and defers to separate Duty to Cooperate Statements, which have been produced alongside the emerging Plan. In our opinion these demonstrate that the Council has not engaged constructively, actively and on an ongoing basis with neighbouring authorities, and uses the rationale that other Plans have now been adopted as reasons that other authorities cannot take their unmet need. We of course recognise that the duty to cooperate is not a duty to agree.

2.3 As considered elsewhere, the Draft Local Plan has (in effect) been prepared on the basis of a District-wide OAN, rather than one which identifies an OAN figure across those authorities (identified in the evidence base) as falling within the relevant housing market area (HMA). However, in this case, the Local Planning Authority has failed in the first instance to maximise the effectiveness of plan preparation within its own boundaries, as we explain in later Statements. It is abundantly clear from Q1.1 (and others) that this draft Local Plan will result in a significant demonstrable shortfall of planned housing provision against requirements (a matter to be considered in greater detail under other questions).

2.4 The Duty to Cooperate Statement Update (2018) provides commentary on approach taken to strategic matters, including the meeting of housing need, which is of particular concern to our client. At paragraph 2.6 the 2018 Statement indicates that;

“*The Regulation 19 Local Plan proposes to provide 6,088 homes against an Objectively Assessed Need of 9,400 and against the Government’s figure, arising from their standard methodology, of 12,900, leaving a shortfall of between 3,312-6,812 dwellings. Whilst the Council has always identified that, due to being a 94% Green Belt authority with two Areas of Outstanding Natural Beauty (AONB), it was highly unlikely that the 9,400 homes were going to be delivered and formed part of an ongoing duty to*
Yet, the Duty to Cooperate Statement provides scant evidence of genuine attempts to address the matter of unmet need. Such a statement as that made above clearly demonstrates that the plan has not been positively prepared.

At Appendix A of the 2018 Statement the Council set out summaries of a number of meetings and phone calls between the Head of Strategic Planning Policy at Tandridge District Council and respective counterparts at; Sevenoaks District Council, Wealden District Council, Mid Sussex District Council, Reigate and Banstead Borough Council, Crawley Borough Council and the London Boroughs of Bromley and Croydon. However, it is clear from these summaries that none of the adjoining LPAs have indicated that they have capacity to accommodate the unmet need (or part thereof) which will arise if the Draft Local Plan is adopted in its present format.

Whilst we note that the Council has subsequently included a series of Statements of Common Ground within the Examination library, these do not add much to the debate or background information as to how matters such as unmet housing need have been addressed under the Duty to Cooperate. Whilst these Statements of Common Ground include a series of actions, these are not actions that result in unmet housing need being addressed.

The Statements of Common Ground appear to suggest that none of the other authorities would be in a position to accommodate Tandridge’s unmet needs. As we explain elsewhere, that need should be addressed within Tandridge given the opportunities to do so, and the apparent lack of opportunities (and need) to meet it elsewhere.

Accordingly, it is doubtful that the Draft Local Plan can be said to have satisfied the requirements of the NPPF (2012) at paragraphs 47 and 179 or section 33A of the Planning and Compulsory Purchase Act 2004.

Sustainability Appraisal

Q1.2 Is the Sustainability Appraisal (SA) adequate?

No. As we explain elsewhere in the Statements we raise fundamental concerns regarding the fact that the SA2019 (MD5 - Tandridge Local Plan 2033 Sustainability Appraisal Volume 2 Options Assessment 2019) assessment of the ‘delivery strategy approaches’ on page 164 includes a garden village in each option.

The Sustainability Appraisal should have been based on an analysis of all reasonable alternatives. Given the number of sites which the Council has considered, it is evident that there is a supply of sites which would provide a quantum of development which is at least equivalent to, if not greater than, the quantum of housing expected to be delivered from the South Godstone (1,400 dwellings). One such reasonable alternative option was considered at the ‘Issues & Options’ stage, where Strategic Delivery Approach 5 identified 10,128 dwellings from urban extensions, including our client’s site CAT042. This approach should have been assessed in the SA.
2.12 The Council appears to have determined that each option must include the GC, but that approach fails to have regard to the other ways in which housing sites could be accommodated in the District.

Q1.3 **Has the SA been undertaken on the basis of a consistent methodology and is the assessment robust?**

2.13 We consider that there are serious flaws, or a lack of explanation over the assessment conclusions and that as a consequence it does not represent a robust assessment.

2.14 For example, whilst matters associated with the planned housing requirement are addressed elsewhere, we note that Volume 2 of the SA (document SSHA3) (section 5.4) sets out the assessment of the housing requirement options. The scoring of each of these options is presented in table 11.

2.15 As far as we can establish, the SA does not provide any explanation as to why the first of the options considered (referred to as ‘DCLG new methodology housing number – 645 dwellings per annum (dpa)’) would result in a different score to the other options. For example, the option based on 645 dpa scores – (two minuses) against biodiversity and against contaminated land. Against the same objectives the option based on 306 dpa is assessed as 0. However the SA does not provide any explanation as to why this is the case. In relation to biodiversity, we note the requirement in the NPPF 2019 (which will apply for decision-taking) seeks to ensure that proposals lead to net gains for biodiversity. There is an argument therefore that greater levels of housing would provide further opportunities for net gain.

2.16 We also note that table 11 in Document SSHA3 suggests that the increased housing requirement would have a worse impact on health. We do not understand why the Council considers this to be the case. These are only three such examples as to why the SA assessment is flawed and why there is a lack of reasoning for the rejection of alternatives.

2.17 Section 5.4 of document SSHA3 also records that:

> “Even economic objectives (6&7) seem likely to be negatively affected by the OAN and DCLG numbers. This is because the growth rate would be unsustainable, negatively affecting the balance of local homes and jobs. Higher housing numbers would lead to increased pressure on employment premises to change use to residential”.

2.18 We have not seen any evidence that planning for higher housing numbers would lead to increased pressure on employment premises to change use to residential. As we explain elsewhere in our Statements to this examination, other sites have been promoted (and assessed by the LPA), however these have been excluded without full and proper justification and would provide a source of additional sites without the change of use of employment sites. Appropriate planning controls can be put in place to protect employment land, and indeed have been within the Draft Plan.

2.19 We note that in every respect, table 11 of Document SSHA3 (other than when assessed against the provision of housing), does not record any positive scores against other socio-economic matters by providing new housing, other than against ‘Economics’ and ‘Employment’ in the scenario of planning for the ‘maximum potential in light of
An increased housing requirement (and supply) is capable of providing an additional workforce, helping to sustain local businesses and generating additional local expenditure in the longer term, as well as through the building phase.

2.20 We also raise concern over the fact that table 11 of Document SSHA3 scores the ‘maximum potential in light of background evidence’ option (i.e. 303dpa) against the housing objective as +. In contrast, the higher requirement derived from the MHCLG figures (645dpa) is scored as ++ and the OAN option of 470 dpa is scored +/++. This is despite the fact that the figure of 303 dpa fails to provide for even the demographic needs of the area and results in a substantial shortfall against the affordable housing needs of the area early in the Plan period (391 affordable dpa). The options which are capable of addressing these needs should be scored more positively. In our view, there is a case that the 303dpa option must be score negatively since it fails to provide for the needs of the area.

2.21 The analysis in section 5.4 of Document SSHA3 suggests that:

“Even economic objectives (6&7) seem likely to be negatively affected by the OAN and MHCLG numbers. This is because the growth rate would be unsustainable, negatively affecting the balance of local homes and jobs, leading to a greater level of out-commuting. Higher housing numbers would lead to increased pressure on employment premises to change use to residential – incentivised by greater land values and a more relaxed permitted development order at national level. Pressure for housing development to be extended into tier 3 and 4 settlements, or even the open countryside would inhibit the ability of the Local Plan to reduce car dependency and support town centres.”

2.22 We disagree with the above statement. The Council has identified, considered and then arbitrarily discounted sites which could be allocated at higher order settlements without increasing the pressure on less sustainable settlements/the open countryside to accommodate development.

2.23 The SA of this emerging Local Plan requires reconsideration to ensure that the adverse impacts of development are not overplayed and the benefits of development are not underplayed. By excluding a range of reasonable alternatives, including those identified at Issues and Options stage which exclude the GC, the assessment fails in its primary purpose. The Plan is therefore contrary to paragraph 182 of the NPPF (2012) in that it is not justified as it is not ‘the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence’.

Q1.4 Has the SA taken into account the reasonable alternatives and has sufficient reasoning been given for the rejection of alternatives

2.24 No. The Council should have assessed an alternative ‘delivery strategy approaches’ which does not include a garden village, such as the proposed approach to urban extensions including our client site, as considered at the time of the Issues and Options consultation in 2015. The SA is fundamentally flawed due this apparent predetermination. The Council cannot say that the inclusion of the GC represents the most reasonable approach when it has not considered all other reasonable alternatives.
2.25 The Council has failed to include any reasonable alternatives which increase the housing numbers delivered by the Tier 1 and 2 settlements. This is despite Policy TLP01 of the Draft Plan, which states that “In the short to medium term development is directed towards the most sustainable settlements which are our urban (Tier 1) and semi-rural service settlements (Tier 2).” We have highlighted the limited growth direct at Caterham, one of the most sustainable settlements in the District.

2.26 In addition, we note that the SA has considered options based on the premise of development being at a significantly greater density than the prevailing character of the area. In our opinion, it is not robust to consider approaches which assume development at a rate of 70 dwellings per hectare in Tandridge.

2.27 The higher density housing options appraised in the latest SA (July 2018) do not represent ‘reasonable alternatives’ and we would consider it reasonable to distribute housing in an alternative way at a standard density with higher housing numbers being deliverable in the Tier 1 and Tier 2 settlements across a wider range of sites. This would be in line with the Council’s stated preferred approach to focus residential development on Tier 1 and 2 settlements.

2.28 Document SSHA3 (Tandridge Local Plan Sustainability Appraisal Regulation 19 Stage Volume 2 Options Assessments 2018) does not set out why in the Council’s opinion our client’s site failed the Green Belt exceptional circumstances test. We consider this in our Matter 3 submission, but it is apparent that the consideration of the merits of individual sites in this regard is inconsistently dealt with in evidence. Previous submissions demonstrate that any concerns stated in the SA are without basis, yet the SA process appears to arbitrarily ignore the evidence submitted by our clients, without any explanation as to an alternative view or evidence.