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 2: The provision of housing

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

This matters statement deals with parts A, B, C and D. We do not wish to make any comments on part E (Affordable Housing Requirement) or part F (Provision for Gypsies, Travellers and Travelling Showpeople).

A: Calculation of the Objectively Assessed Need for Housing (OAN)

Issue: Is the basis for establishing the OAN for Tandridge consistent with national policy and guidance?

2.1 Is the preparation of the SHMA on the basis of a Housing Market Area (HMA) defined for Tandridge District justified? Is the definition of the HMA consistent with the Planning Practice Guidance?

2.1.1 TDC has clearly heavily scrutinised the impact of its proximity to London within the 'Defining the Housing Market Area Updated Technical Paper for Tandridge District Council' prepared by Turley in June 2018. At the time of submissions of the hearing statements, the hearing sessions in the examination of the draft new London Plan have ended and the report is expected by the panel of inspectors at some point in
the autumn. The findings of the panel with regard to the unmet housing need in London must be a key consideration for the extent to which TDC will be expected to have increased regard to this in the delivery of housing and the requirement to consider the wider London Area as part of the overall HMA.

2.2 Is the use of the 2016 based household projections justified in calculating the OAN for the District and is it consistent with the Planning Practice Guidance?

2.2.1 TDC says that their OAN (SHMA 2015) is 9,400 dwellings over the plan period, or 470 dwellings per annum ("dpa"). This calculation was based on a demographic starting point on a 10 year migratory trend using a combination of the 2012 Sub National Population Projections adjusted to take account of the 2014 Mid-Year Estimates. The use of the 10 year trends is at odds with the 5 year trends preferred by the Office for National Statistics. This means that there is the potential for inconsistency between the calculations of need across the country. The reasoning behind this decision has not been explained fully.

2.3 Is the 20% Market Signals adjustment justified?

2.3.1 Paragraph 2a-015 of the PPG states that:

'The 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. For example, formation rates may have been suppressed historically by under-supply and worsening affordability of housing. The assessment will therefore need to reflect the consequences of past under delivery of housing. As household projections do not reflect unmet housing need, local planning authorities should take a view based on available evidence of the extent to which household formation rates are or have been constrained by supply.'

2.3.2 Further, paragraph 158 of the 2012 NPPF states 4.30 that:

'Each Local Planning Authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated and they take full account of relevant market and economic signals.'

2.3.3 The Core Strategy (October 2008) based its housing target on the South East Plan target which was set at 125dpa. As this figure was based on constraints rather than needs, it did not necessarily capture any suppressed household formation. TDC’s low delivery rate over the past few years, below that of what is set out in the draft Local Plan (dating back to 2013) will only have exacerbated this issue. Additionally the affordability ratio in TDC is 14.07, higher than the majority of the surrounding LPAs. This will have also added to the number of suppressed household formations. TDC need to recognise and address this issue and seek to apply an uplift in order to conform with national policy.

2.3.4 The Planning Practice Guidance (PPG) does not elaborate as to what an appropriate uplift would be, other than stating in paragraph 2a-020 that it should be...
“reasonable”. Because of this there have been discussions at many local plan examinations as to what an appropriate uplift should be. Uplifts have generally ranged from 5% to 20% depending on market signals, but it would seem that more recently inspectors, and LPAs, have been choosing higher uplifts where market signals are worst. However, there have been examples of uplifts above this level. Cambridge agreed an uplift of 30% and the Inspector’s decision at Waverley Borough Council to require a 25% uplift address the considerable affordability concerns in that Borough are the most recent examples.

2.3.5 This approach is compounded by the government’s standardised housing methodology for calculating housing need which forms part of the 2018 NPPF. It demonstrates that there is a government drive to address affordability through housing numbers. TDC’s OAN from this methodology rises from 9,400 units over the plan period to 12,900 units. Such an increase clearly shows the acuteness of affordability issues within the district and how a 'do nothing' approach will make this situation worse.

2.3.6 It is suggested that based on recent examinations in similar 4.36 LPAs and the evidence set about above, a market uplift of at least 25% should be applied to the housing target in order to help address this issue.

2.4 Is the approach to defining affordable housing needs justified?

2.4.1 No comments

2.5 Are the assumptions made in respect of employment growth realistic?

2.5.1 No comments

2.6 Are there other relevant factors to be taken into account in calculating the OAN?

B: The housing requirement

2.6.1 No comments

Issue: Is the plan positively prepared and justified given that the Plan provides for 6,056 homes in the Plan period, against the OAN of 9,400 as set out in the Publication Plan and the OAN of 7,960 set out in the document Updating the Objectively Assessed Housing Needs of Tandridge (HN55)?

2.7 Is the Plan justified in not meeting the full OAN for Tandridge and is it consistent with paragraph 14 of the Framework?

2.7.1 The housing target between 2013 and 2033 has been set as 6,056 units, according to the proposed submission version of the Local Plan. It is unclear as to exactly how TDC have arrived at this figure and indeed why it is substantially lower than the OAN set out in the SHMA (2015) of 9,400 units across the plan period.
2.7.2 The June 2018 version of the Local Plan which was approved by members of the Planning Policy Committee in a meeting on 3 July 2018 to move forward to Regulation 19 consultation (subject to a number of amendments), refers to a target of 6,125 units across the plan period. This, although not a substantial amount, is 69 units higher than the target contained within the January submission version of the Local Plan.

2.7.3 There is no further justification as to why this figure has changed and highlights lack of transparency and a fundamental flaw in the methodology of the calculation of the housing target which is contrary to the 2012 NPPF and PPG.

2.7.4 Paragraph 14 of the 2012 NPPF states that Local Plans should meet their OAN with sufficient flexibility to adapt to rapid change. With the draft Local Plan proposing a housing target 3,344 units below the 2015 SHMA OAN calculation of 9,400 dwellings for the plan period, it is evident that the Local Plan does not comply with this paragraph of the 2012 NPPF.

2.8 Have all realistic options for meeting the OAN within Tandridge in full been exhausted?

2.8.1 Paragraph 3-026 of the PPG states that if LPAs cannot identify sufficient sites against their OANs (emphasis added):

‘Plan makers will need to revisit the assessment, for example changing the assumptions on the development potential on particular sites (including physical and policy constraints) including sites for possible new settlements.

If, following this review there are still insufficient sites, then it will be necessary to investigate how this shortfall should best be planned for. If there is clear evidence that the needs cannot be met locally, it will be necessary to consider how needs might be met in adjoining areas in accordance with the duty to cooperate.’

2.8.2 This sets out clearly that TDC should have reviewed the assessments of sites to meet their proposed OAN of 9,400 units once it became clear that the identified sites in the July 2018 version of the Local Plan could only demonstrate a supply of 6,056 units.

2.8.3 The approach taken by TDC as outlined in previous paragraphs is symptomatic of the wider methodology adopted by TDC to determine the housing target. TDC appear to have implemented a continuation of the South East Plan (“SEP”) methodology which was a target based on constraints rather than meeting the needs of the district. This approach is inconsistent with national policy.

2.8.4 Rather than aiming to meet the OAN of 9,400 units set out in the SHMA (2015), TDC appear to have decided on a housing target and then proceeded to state why it cannot meet the OAN and why it is not reasonable to do so. This is not based on robust justification and is not positive plan making.

2.8.5 It is acknowledged that TDC is a constrained borough with a very high proportion of Green Belt. However this is not enough to justify why the proposed housing target is significantly lower than the OAN set out in the SHMA.

2.8.6 Paragraph 47 of the 2012 NPPF states that (emphasis added):

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Matter 2: Procedural/legal requirements
To boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area.'

2.8.7 It is clear that the Local Plan does not address the principles set out in paragraph 47 and does not address how TDC’s unmet need will be met. It is proposed that the housing target is re-examined and calculated to satisfy national policy requirements.

2.9 What are the consequences of not meeting the OAN within the HMA for delivering a wide choice of high-quality homes, widening opportunities for home ownership and creating sustainable, inclusive and mixed communities which meet the needs of different groups in the community?

2.9.1 Clearly, there are significant consequences for not meeting the OAN both for TDC and the wider HMA. Not only would it not deliver high quality market housing, the impact on delivery of much needed affordable housing would be severe.

2.10 Would and/or where would any unmet housing need arising in the Tandridge HMA during the Plan period be met?

2.10.1 Following on from paragraph 47 of the 2012 NPPF, paragraph 156 sets out the strategic priorities required by the LPA to include in their Local Plan. It states that (emphasis added):

‘Local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver...the homes and jobs needed in the area.’

2.10.2 Paragraph 3-026 of the PPG as set out previously, outlines that councils are required to go back and re-examine their assessments to find additional sites if the OAN is not being met. If there are still insufficient sites then councils will need to consider how these needs can be met in adjoining areas under the Duty to Co-operate. It is not sufficient for TDC to say that they cannot meet their OAN and that is the end of the matter.

2.10.3 Additionally the 2012 NPPF states in paragraph 179 that LPAs should (emphasis added):

‘...work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly co-ordinated and clearly reflected in individual Local Plans. Joint working should enable local planning authorities to work together to meet development requirements which cannot wholly be met within their own areas…’

2.10.4 This clearly shows that TDC should work together with its neighbouring LPAs in order to meet development requirements. This stresses the fact that the Duty to Co-operate should go beyond simply stating the issues and should in fact report on outcomes and actions to be taken in order to achieve the outcomes stated in paragraph 179 of the 2012 NPPF.

2.10.5 After reviewing TDC’s Duty to Co-operate statements, it is clear that the work has mainly involved a report of where each LPA is at in their plan-making process and what their position is on unmet need. There has been no consideration as to what actions could be taken regarding TDC’s unmet need and no discussion has taken place about how this issue could be overcome.
C: The overall supply of housing

**Issue: Is the proposed supply of housing for the Plan period realistic?**

2.11 Does the housing trajectory set out in the Housing Topic Paper (HNS2) provide a sound basis for meeting the identified housing need?

2.11.1 Paragraph 47 of the NPPF planning policy requires councils to demonstrate and maintain a consistent five year housing land supply throughout their plan period.

2.11.2 Appendix 3 of the housing trajectory as set in the Housing Topic Paper 2019 (on an assumption of 306dpa and the past shortfall being provided) demonstrates that the initial five year housing land supply (2019/20-2023/24) would be 5.2 years (which is extremely marginal) but would drop to 3.7 years for the following five year period (2024/25-2027/28).

2.11.3 Even the Housing Trajectory with Updated Information and Accelerated Delivery of Garden Community (appendix 4) demonstrates that the initial five year housing land supply (2019/20-2023/24) would be 6.1 years but would drop to 4.4 years for the following five year period (2024/25-2027/28).

2.11.4 Quite clearly this is not a ‘strong and consistent flow’ of housing to maintain a five year housing land supply as required by the paragraph 47 of the NPPF.

2.12 Is the housing trajectory realistic and deliverable in terms of its components and are there any threats to delivery?

2.12.1 The Housing Trajectory shows the delivery of units from the garden village either at the current rate, or the accelerated delivery rate, from 2026-2027. Firstly, it is noted that the Local Development Scheme indicates that the Garden Communities Area Action Plan will not be adopted until June 2023. It is assumed that an application would not be determined until after adoption of the AAP and therefore any permission would not be issued until after June 2023. Given the length of time for the determination of any application, the risk of legal challenge, time for clearance of conditions and implementation of permission the prospect of delivery of initial units by 2026-27 is doubtful. Furthermore it is noted that the housing trajectory is constant at either 200 or 270 dependent on which trajectory is followed. A reduced rate should be allowed for lead in and run off which has not been shown in the trajectory.

2.13 Is the contribution towards housing supply of housing from windfall, town centre initiatives and the predicted supply of 20 vacant dwellings per annum being brought back into use realistic and justified?

2.13.1 No comments
2.14 Is it justified that HSG20; North Tandridge: One Public Estate (NTOPE), Caterham is included in the housing trajectory?

2.14.1 No comments

2.15 In broad terms, is the housing development proposed in the Plan and set out in the trajectory based on a sound understanding and robust evidence of viability?

2.15.1 As set out above, there is significant ambiguity in the housing trajectory on the delivery of units from the garden villages and it does not result in a sound approach to maintaining a five year supply of housing.

2.16 Given that the proposed South Godstone Garden Community is intended to deliver around 1,400 new homes in the Plan period and the details of the development would be considered by an Area Action Plan (AAP), would it be effective to include within the Plan a Policy which commits the Council to a review of the Plan if the AAP is not adopted by a specified date in order to sustain the supply of housing?

2.16.1 Yes. In any event TDC will be obligated to undertake a review of the local plan within 5 years under the terms of the NPPF (2019). Paragraph 33 of the current NPPF (2019) states that (inter alia)

> Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

2.16.2 If the AAP was not adopted by 2023 then this would trigger the need for a review in any event under the terms of paragraph 33.

D: Five year housing land supply

Issue: Would the Plan secure a five year supply of deliverable housing sites?

2.17 Will the Plan provide for a five year supply of deliverable housing sites on adoption?

2.17.1 At present, it is unclear whether TDC are unable to demonstrate a five year housing land supply as required within the 2012 NPPF and PPG in order for the plan to be found sound. This conclusion is based on several matters including an incorrect calculation within the Housing Topic Paper and a misinterpretation of key policies. As set out previously, the housing target has not been positively prepared and therefore TDC have failed to explore and plan for the implications later in the plan period.

2.17.2 The calculation of TDC’s five year housing land supply as set out in the previous section of this matters statement is set out in the Housing Topic Paper within Table 8. In paragraph 430, TDC claim that (emphasis added):

> ‘The table reflects the annualised Local Plan requirement of 306 dwellings per annum (rounded). The existing shortfall will be rectified within 5 years (i.e. Sedgefield Method) and a 5% buffer has been applied.’
2.17.3 Whilst the use of the Sedgefield method is welcomed to address past shortfall, the evidence in Table 8 of the Housing Topic Paper shows that based on an expected supply of 1,643 dwellings between 2019 and 2024,

2.18 In the context of paragraph 47 of the Framework, is it justified to apply a buffer of 5% within the calculation of the five year supply?

2.18.1 The explanations in the Housing Topic Paper (2019) regarding the application of buffers to housing targets in relation to the 2012 NPPF and PPG are somewhat confusing and contradictory.

2.18.2 In paragraph 29, it states that (emphasis added):

‘The Plan’s Spatial Strategy provides the basis for a strong and consistent flow of new housing being delivered to achieve and maintain a 5-year housing land supply in accordance with paragraph 47 of the [2012] NPPF. It acknowledges the District’s recent levels of housing completions have resulted in a shortfall when set out against the new Local Plan housing target and identified through the District’s Annual Monitoring Reports, and therefore applied a 5% buffer to the housing target to provide for this.’

2.18.3 This is a fundamental misinterpretation of paragraph 47 of the NPPF. The exact wording of paragraph 47 reads as follows (emphasis added):

‘To boost significantly the supply of housing, 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 of 5% (moved from later in the plan period) to ensure choice and competition in the market for land.’

2.18.4 The 5% is applied for choice and competition NOT for past under-delivery. Therefore the statement in paragraph 29 on the Housing Topic Paper is factually incorrect.

2.18.5 Further on within the same document, TDC concede that the 5% buffer is in fact applied for the purposes of increasing choice and competition in the market (paragraph 432). However it states that the buffer is not regarded as being part of the overall housing requirement. Once again this is incorrect. Paragraph 47 of the 2012 NPPF clearly sets out that LPAs need to be able to demonstrate a five year housing land supply WITH and additional buffer of 5% for market competition and choice.

2.18.6 Logic would suggest that if the housing land supply figure were to be calculated without the 5% buffer for competition and choice (and therefore not accommodated for within the housing supply and trajectory), there would be no allowance for competition and choice as the additional housing wouldn't exist. It is common practice for LPAs to incorporate this buffer into their housing land supply because without it, it would simply be a theoretical uplift as opposed to physical homes and parcels of land from which buyers can chose from.

2.19 What are the implications of the Housing Delivery Test for the five year supply of housing after the Plan is adopted, having regard to the application of the appropriate buffer as set out in paragraph 73 of the revised updated National Planning Policy Framework 2019?
2.19.1 Irrespective of the argument over TDC’s housing supply capacity based physical constraints, the level of demand and housing need in the district will continue to exist. Preparing a plan with a much lower housing target than the OAN will not mean the need for housing within the district will suddenly go away. In fact, such a low housing target as proposed by the draft Local Plan will mean that this pressure will increase the level of housing need as the plan period progresses.

2.19.2 It is understood that under the 2018 NPPF, LPAs submitting before the 24 January 2019 deadline will be examined using the 2012 NPPF. However in the Housing Delivery Test Measurement Rule Book (July 2018), once the latest adopted housing requirement is more than five years old the LPA will be assessed on the minimum annual local housing need figure (i.e. the standardised methodology).

2.19.3 This means that despite TDC proposing to adopt a housing target of 306dpa for the remainder of the Local Plan period (until 2033) from 2024 TDC will be assessed on the standardised methodology housing target.

2.19.4 At present this is 645dpa but if TDC were to only provide 306dpa until 2024, it would be likely that the standard methodology housing target would be higher than 645dpa in order to make up for the five years of shortfall against the OAN.

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

Andrew Black

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