MATTER 8

Question 8.3 Would the second paragraph of the Policy be effective given the legal requirement that local plans are to be reviewed at least every five years?

The second paragraph of Policy TPL03 refers to the determination of withdrawing land for the South Godstone Garden Community from the Green Belt at a future date, through the Area Action Plan. I have addressed the unacceptability of this approach in my response to question 4.5 and also cited the rejection of a similar approach in the North Essex Authorities Strategic Plan by the Inspector examining it.

I will not repeat these points here but would note that the Inspectors examining the West of England Joint Spatial Plan appear to have taken a not dissimilar position over deferring decisions on exceptional circumstances and the Green Belt to a future date in a Post-Hearing Letter dated September 11, 2019 (paragraph 33).

Furthermore Tandridge District Council has not established that the exceptional circumstances needed to release land from the Green Belt in this location have been established in principle, despite the claim to the contrary at Paragraph 32.19 of the Local Plan. Indeed the Local Plan seems to make little effort to do so.

It appears to rely on Chapters 3 and 4 of Part 3 of its Green Belt Assessment, which in turn rely heavily on the Calverton Principles, though it also mentions the criteria laid down in the new NPPF. Yet as shown, for example, by TLAG's Regulation 9 representations, the Calverton Principles do not justify removal of land at South Godstone from the Green Belt, and the Assessment itself points out (at paragraphs 4.10, 4.11 and 4.21) that the Green Belt in this location serves its purposes and (at paragraph 4.16) that building a garden community would harm it. The Arc report, submitted by TLAG as part of its Regulation 19 representations confirms the irreparable harm that would be done.

The Council has also failed to meet the new NPPF's criteria for exceptional circumstances being met. As I detail in my response to Q8.26 below, it has deliberately and openly rejected the requirement to optimize densities, in an acknowledged defiance of Government policy. It is also failing to make as much use as possible of brownfield land (my evidence on Caterham in my response to Q3.1, gives one example) and, as many responders have pointed out, it has also failed to have adequate discussions with neighbouring local authorities about meeting unmet need.

Question 8.4: Is the third paragraph of the Policy consistent with paragraph 87 of the Framework in stating that inappropriate development will normally be refused?

To my - lay - mind, Policy TL03 does seem subtly to weaken the very clear statement in paragraph 87 in the way it has merged it with part of paragraph 88 and introduced the word “normally”, but I would not know what effect his might have in practice. It would also seem to me that omitting the stipulation in paragraph 88 that “substantial weight” should be given to “any (my emphasis) harm to the Green Belt serves to weaken the policy.

Question 8.26: Would the policy be effective and consistent with national policy in encouraging the effective use of land?

Policy TLP19 is certainly now directly in conflict with national policy, and this is absolutely deliberate, as was made abundantly clear in open council.

The policy in the Regulation 19 version of the local plan (dated June 2018) contained references to “optimized densities” at bullet IV and to “optimum densities” in the first para under “previously developed and brownfield land” at the foot of the policy.

On July 19th, 2018, Piers Mason, Director of Place (then in charge of the local plan) told Tandridge District Council’s Overview and Scrutiny Committee - as mentioned in my Regulation 19 representations - that this policy had been amended “to remove reference to...the idea of optimised densities”. He added: “So, despite the fact that it is mentioned in the Government's housing White Paper and is also in the draft new version of the NPPF, we have rowed
back to the position which is very little different from the existing position in the existing plan”.

He also told the committee that a provision to ensure that new developments met the average existing levels of density in their area had been “deleted entirely” from the local plan because he accepted that such a provision could lead to “a potentially continuous upward spiral of density”. This, though he did not – in this case - say so, appears to be contrary to the requirement in the new NPPF for a “significant uplift” in minimum density standards in towns and cities, and other areas well served by public transport.

Extensive changes to policy TLP19 were accordingly made in the final version of the Local Plan, dated Dec 18. All reference to “optimized” or “optimum” densities were removed, to be replaced with “appropriate densities”. An undertaking to refuse to approve schemes “lower that the average density for the surrounding area” was also removed, from the last para, under “previously developed and brownfield land”. Strangely none of these changes were tracked, though other changes in the policy were.

The Council thus seems to have deliberately violated national policy in amending Policy TLP19 in this way. This would seem to have significant consequences for its proposals to remove land from the Green Belt since the new NPPF (which – though the Local Plan is being considered under the old one – is still a material consideration at this point, and will be in force for the preparation and consideration of the AAP) stresses the importance of strategic policies optimising the density of development when considering whether” exceptional circumstances” exist. Limited research carried out by the Tandridge Lane Residents Group has found that there are, indeed, sites allocated in the Local Plan, where densities are not being optimised.

It is hard to see how any release of Green Belt land in Tandridge, at South Godstone and elsewhere, can be justified, or permitted, in this situation.

Please forgive this one example in my responses where I have repeated, at some length, material (the Piers Mason quotes) from my Regulation 19 representations. I did so because it seemed particularly apposite to this question and would ask if I might possibly be granted some latitude.

**Question 8.53: Is it effective and consistent with national policy for the Policy to require the protection and enhancement of the key landscape features identified in the Surrey Landscape Character Assessment 2015 and the Tandridge Landscape Capacity and Sensitivity Assessment 2016-2018 when these are not set out in the Plan. In terms of Paragraph 154 of the Framework, does the Policy provide a clear indication of how a decision maker should react to a development proposal.**

Having never been involved in planning decision making I can only respond tentatively to say that Policy TLP32 appears to offer clear guidance that development proposals must incorporate and implement the landscape guidance set out in the Surrey Landscape Character Assessment (SCLA) 2015. I accept that this is not an expert view.

It does seem important however, that – despite laying out this policy - Tandridge Council is itself flouting it in its promotion of the Garden Community in South Godstone. The LCPA lays down the landscape strategy for the area that includes South Godstone as “to conserve its peaceful unsettled character”, and goes on to list things that must be done to ensure this is fulfilled, including conserving “the pattern and character of existing settlements”. Constructing 4,000 dwellings around South Godstone could hardly be a greater violation of this.

**Question 8.60: Is the Policy consistent with paragraph 109 of the Framework in respect of net gains in biodiversity?**

There is a clear inconsistency between paragraph 109 which specifies that the planning system should provide “net gains” in biodiversity and Policy TLP35 which merely says that development should ensure that there is “no net loss” in biodiversity. (This has, however, been altered in the Submission Version of the Local Plan, dated December 2018, in a way that appears to make it consistent)

In practice, the Local plan, and especially the Garden Community, will almost certainly achieve neither, but lead to a net loss. Although the area of search contains no Sites of Special Scientific Interest, it is within two kilometres - and within the outer impact zones- of two of them. It also contains both a designated and a potential Site of Nature Conservation Interest. The core planning principles of the NPPF at paragraph 17 clearly lay down that allocations of land for development should “prefer land of lesser environmental value”: this makes yet another reason why development should be concentrated instead in existing Tier 1 and Tier 2 settlements.
Question 8.88. Is it effective and consistent with national policy to require accordance with the Council's Air Quality Impact Assessment, conditions developed by Surrey Air Alliance and the Local Transport Plan, when these are not a development plan documents? In terms of paragraph 154 of the Framework, does the Policy provide a clear indication of how a decision maker should react to a development proposal?

Policy TLP46 clearly states that developments should be located so that they do not cause significant pollution and also makes clear that they should not lead to a significant deterioration in local air quality. Yet Tandridge District Council's plan to build a garden community will, as its Sustainability Appraisal says, make it likely that air quality will diminish because of the increase in traffic, and other factors.

Measurements over the course of a year by the Tandridge Lane Action Group demonstrated that one site on the A22 was already near permitted limits for pollution, and I believe the same is true for a site in Godstone. Both would be likely to exceed the limits with the extra traffic resulting from the building of a garden community.

Question 8.89; Is Policy TLP47 consistent with the Framework in regards to the impact of climate change on flood risk?

Policy TLP47's provision that Sustainable Urban Drainage Systems (SUDS) should be designed merely with “consideration” of future climate change seem to fall well short of the requirement in paragraph 94 of the NPPF that “local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk....” It also seems inadequate compared to the requirement in paragraph 99 that “new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change.”

This is particularly regrettable in this instance because, even in today's conditions, SUDS will be only of limited benefit on the clay soils with high water tables of much of Tandridge - including South Godstone - since, as I described in my Regulation 19 representations, the best options for discharging the water collected by them are absent, and those remaining pose their own risks of flooding. This aggravates the inherent general drawbacks of SUDS which, as I also described, can – at best - only deal with surface water flooding from certain, limited rainfall events.

Climate change, which is forecast to increase both the intensity of rainfall and the extent of flooding, is bound to make the role of SUDS even more problematic in the area. Since it is now firmly established that climate change is taking place, Tandridge District Council should be taking proactive approach to addressing it, as the NPPF requires, rather than merely taking it into consideration.

This, however, is not the only instance of the Council’s complacency in addressing the increased risk of flooding from climate change. As reported in my response to Q1.8, it flatly turned down the Environment Agency's sensible request that it avoid development completely in Flood Zone 2, which is expected to become as prone to flooding as Zone 3 is at present, as climate change takes hold.

My response to Q1.8 also set out why I considered that the Plan's policies fell short of the requirements of Section 19 (1A) of the Planning and Compulsory Purchase Act 2004. Perhaps I could take this opportunity to say that they also clearly do not fulfil the requirements of the NPPF as set out not just in paragraph 94, but in paragraph 156 which requires Local Plans to “include strategic policies to deliver...climate change mitigation and adaptation.

To take another example, policy TLP44 - which undertakes to “positively consider” renewable energy schemes, so long as they are not “unacceptably visually intrusive” - is far less ambitious than the requirements in paragraph 97 for local authorities to “have a positive strategy to promote energy from renewable and low carbon sources” and to “design their policies to maximise renewable and low carbon energy development.”

Similarly, the proposal to build a large Garden Community in a remote place like South Godstone, which will inevitably be dependent on the private car, flouts the requirement in paragraph 95 “to plan new development in locations and ways which reduce greenhouse gas emissions“.