Hearing Statement: Matter 8 Development Management Policies

Issue: Are the individual policies clear, justified and consistent with national policy and will they be effective?

TLP04: Infrastructure Delivery and Financial Contributions

Question 8.6 In terms of paragraph 154 of the Framework, does Policy TLP04 provide a clear indication of how a decision maker should react to a development proposal? Is the Policy proportionate in requiring all proposals to demonstrate mechanisms to provide infrastructure?

1.1 No. Paragraph 154 requires clear policies on what will or will not be permitted and where. Policy TLP04 relies on the Infrastructure Delivery Plan (IDP). The IDP is not in the Development Plan, yet this policy states that applications are to be decided “in accordance” with it. The IDP is expected to be updated more frequently than the Local Plan and outside of the NPPF Examination framework, and that makes it impossible for a decision maker to know how to react to a development proposal. The IDP is a constantly moving target, unexamined and prepared and updated outside of the planning system. Therefore, it should not be given weight or used for decision making.

1.2 It is difficult to suggest a change to make the policy sound because the obvious one, that is including the actual infrastructure in the Plan is problematic for these reasons:

- The Plan is described as “infrastructure-led” but this is not supported by the evidence. The IDP itself contains no proper assessment of infrastructure needs and the costs of any necessary infrastructure provision have not been factored into the site assessments. In addition, the items that are listed in the IDP read as policy objectives, statements of intent, or simply a wish list, rather than as identifiable projects which have a reasonable prospect of being delivered. No land has been allocated for infrastructure.

- There is disagreement regarding some sites between providers, for example between Tandridge District Council and Surrey County Council as evidenced by site HSG13. This disagreement has implications for duty to co-operate because, while it may be the case that agreement is not required for the duty to be fulfilled, if the infrastructure provider does not agree under duty to co-operate, then is there a realistic prospect that the infrastructure will be delivered?
• The Council cannot change the infrastructure requirements once they are put into the Plan and being able to change them appears to be fundamental to the Council’s approach to infrastructure. Further clues that “flexibility” is aimed for with regard to defining infrastructure requirements are the inclusion of policies for new schools and burial grounds in the Green Belt. Schools are one of the easiest infrastructure items to plan for, and so the need for TLP23 is an indication that sufficient land for schools has not been allocated in the Local Plan and so a policy to build new schools in the Green Belt is felt to be necessary.

**Question 8.7** *Is Policy TLP04 consistent with paragraph 204 of the Framework and the Community Infrastructure Levy Regulations 2010 and would it be effective?*

1.3 No. The policy states that contributions from applicants will be “required in accordance” with the IDP. As explained in our answer to question 1.2 the IDP is an unexamined document drawn up outside of the planning system which is constantly changing. Therefore it would not be effective to require contributions in accordance with it.

**Question 8.8** *Are the proposed Modifications necessary for soundness?*

1.4 No. The proposed Modifications do not make policy TLP04 sound.

**TLP05: Development Viability**

**Question 8.9** *Is the Policy effective and consistent with national policy in requiring compliance with the Infrastructure Delivery Plan which is not a development plan document?*

1.5 No. The Policy cannot be effective and consistent as it requires compliance with the IDP which is an unexamined document outside of the planning system.

**Question 8.11** *Are the proposed Modifications necessary for soundness?*

1.6 No. The proposed Modifications do not make policy TLP05 sound. We reiterate our response to question 6.1 regarding viability of greenfield sites. It is crucial to fulfilling the recommendation made in the Viability Study that the Council must manage land value expectations. Chapter 16 of our Regulation 19 submission explains why we consider the policy is not effective.

**Suggested modification**

1.7 We suggest removing this policy and the weak supporting text and including a single statement in both the affordable housing and infrastructure policies that says:
All development is expected to meet all policy requirements in full.

TLP10: Responsive Housing Strategy

Question 8.12 In terms of paragraph 154 of the Framework, does Policy TLP10 provide a clear indication of how a decision maker should react to a development proposal?

1.8 No. The Policy gives no criteria for a decision maker to use to judge a proposal. Instead, this is delegated to an unexamined “Housing Strategy” document. This is a Council-adopted document which is prepared and updated outside of the planning system, without any opportunity for public scrutiny, examination or testing of its “soundness”.

1.9 The NPPF and the PPG both explain that it is the role of policies in the Local Plan to define the amount, type, tenure and mix of housing needed, and not for this to be delegated to a Housing Strategy document that is outside of the planning system and that will be updated regularly so that it is “responsive”. These regular updates mean that it will be impossible for developers to plan over the time horizon necessary to deliver even medium-sized schemes. This “responsiveness” will undermine housing delivery and so the policy is not effective or consistent with national policy.

1.10 The fact that TLP10 has to rely on another Housing Strategy document means that the Local Plan itself has failed to meet the NPPF requirement that the Plan itself should contain the “housing strategy” for the District. This calls into question the basis on which the Spatial Strategy and all of the housing policies have been developed. As the OAN and the housing requirement are based on demographics and household trends, it is difficult to see how the Housing Strategy can be updated without affecting the core elements on which the Spatial Strategy and the Local Plan housing policies are built.

Question 8.13 The Council’s Housing Strategy is not a development plan document. Is it justified that the Policy favours proposals which accord with it or that Neighbourhood Plans should assist in meeting its objectives? Are the matters listed those which paragraph 159 of the Framework states should be considered in the preparation of the Strategic Housing Market Assessment?

1.11 For the reasons given in our answer to question 8.12 it is not justified that the Policy favours proposals which accord with the Council’s unexamined Housing Strategy document.

1.12 It is not justified or consistent with national policy in requiring Neighbourhood Plans to assist in meeting the objectives of the Housing Strategy because it introduces documents
that are outside of the planning system to the basic conditions and conformity tests applied to Neighbourhood Plans. It also means that the general conformity test is a moving target, which undermines Neighbourhood Plans and the emphasis on the primary role of development plans embodied in the NPPF.

1.13 Regular updating outside of the planning system also means that the Housing Strategy is not required to have regard to any existing or emerging Neighbourhood Plans. This could mean Neighbourhood Plan policies become “out of date” based on a document or documents that are not required to be scrutinised, examined or otherwise tested for soundness.

1.14 As explained in our response to question 2.6 and Chapter 11 of our Regulation 19, the OAN and the housing requirement are overwhelmingly driven by net inward migration that is not attributable to Tandridge. TLP10 appears to be a way to force Neighbourhood Plans to meet that very large net inward migration component unless these areas undertake a localised housing needs survey to show otherwise. In effect, this turns Neighbourhood Plans into “defence” documents instead of being documents that allow local areas to shape development around their needs and priorities. TLP10 threatens all Neighbourhood Plans by requiring them to comply with the Housing Strategy which also includes affordable housing targets by parish based on the inflated OAN.

1.15 The NPPF requires Neighbourhood Plans to be conformant and defines the basic tests which they must meet, and so it is not necessary to repeat or clarify this in any policy in the Local Plan.

**Question 8.14 Are the proposed Modifications necessary for soundness?**

1.16 No. The proposed Modifications do not make policy TLP10 sound. The Council has replaced “accord with the requirements” of the Housing Strategy with “should take account” of the Housing Strategy and that “proposals should be informed” by it. This does not address the problems detailed above or the fact that the decision maker is left with no criteria by which to make a decision.

**Suggested modification**
In order for the policy to be effective, we suggest TLP10 is rewritten to incorporate the key requirements including the amount, type, tenure and mix of housing needed. References to the Housing Strategy document and to Neighbourhood Plans should be deleted.

TLP11: Retention and Supply

Question 8.16 The Council’s Housing Strategy is not a development plan document. Is it justified and consistent with national policy that proposals must demonstrate how they are responding to the requirements of it?

1.17 No, for the reasons given in our answer to question 8.12.

Question 8.17 Are the proposed Modifications necessary for soundness?

1.18 Deletion of reference to the Housing Strategy assists with soundness. However, reference remains to the Council’s “Economic Proposition” which is another unexamined document outside of the planning system. Reference to this should be deleted.

TLP19: Housing Densities and the Best Use of Land

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

1.19. No. The policy relies on the unexamined Urban Capacity Study and any updates. The vast majority of the Urban Capacity Study area is residential garden land. The implication is that density on residential garden land will increase to such an extent as to justify annual monitoring and updating of the Urban Capacity Study. This is not consistent with national policy which specifically excludes back gardens from being considered as previously developed land.

1.20 The policy is only for housing yet the best use of land should also be made for infrastructure and for employment. We suggest that some previously developed land currently allocated for employment, such as site SES04, may be better used for housing. The Council has not allocated land for infrastructure.

Question 8.27 In terms of paragraph 154 of the Framework, does Policy TLP19 provide a clear indication of how a decision maker should react to a development proposal?

1.21 No. TLP19 relies on updated versions of the Urban Capacity Study. This Study and its updates are not subject to the planning and Examination system. It is a moving target and so it is impossible for a decision maker to know how to react to a development proposal.
1.22 TLP19 leads to confusion for the decision maker because its provisions are duplicated elsewhere, either in the Local Plan itself or in the Detailed Policies. The eight provisions can be found in TLP01, the TLP individual site policies, TLP18, TLP32, TLP37, TLP38, and Detailed Policies DP5 and DP7. These other policies are more detailed and so TLP19 is muddling and unnecessary and provides no new information for the decision maker.

**Question 8.28 Are the proposed Modifications necessary for soundness?**

1.23 No. The proposed Modifications do not make policy TLP19 sound.

**Suggested modification**

Best use of land and optimum density are more likely to be achieved by robust policies for specific proposals such as housing, employment and infrastructure. For the reasons given above and in Chapter 21 of our Regulation 19 submission, we suggest this policy is deleted.

**TLP22: Rural Economy**

**Question 8.29 Is the Policy consistent with national policy for Green Belts given that the potential development envisaged within the criteria may constitute inappropriate development which is by definition, harmful to the Green Belt? Would the policy be effective in supporting a prosperous rural economy?**

1.24 No. The policy is not effective because it is not criteria based and does not give clear guidance to the decision maker. It is written in generalities. Provisions I, III and IV are the Council’s aspirations or intentions and contain no criteria for evaluating a development proposal. Provision II duplicates TLP41 and TLP42.

**Suggested modification**

We suggest in Chapter 23 of our Regulation 19 submission some criteria for inclusion in a rewritten policy.

**TLP23: Protection, Provision and Enhancement of Schools**

**Question 8.31 Are the criteria set out in respect of schools in the Green Belt justified and consistent with national policy for Green Belts as set out in the Framework?**

1.25 No. Chapter 15 and 24 (Infrastructure), paragraphs 15.31 -15.35, of our Regulation 19 submission set out why the Council’s ad hoc policy for schools provision which relies on creating a Very Special Circumstances case in the Green Belt for schools development is not consistent with the NPPF or PPG. Schools are key infrastructure and adequate land should be allocated for them in the Local Plan.
Question 8.32 Are the proposed Modifications necessary for soundness?

1.26 No, for the reasons given in our answer to question 8.31 and in Chapter 15 and 24 (Infrastructure) of our Regulation 19 submission.

TLP29: Oxted Town Centre

Question 8.46 In criterion I, is it effective and consistent with national policy to refer to the Council’s Housing Strategy rather than Policy TLP10 as that document is not part of the development plan? How would the delivery of 60 dwellings be achieved? Are these homes included in the supply for housing?

1.27 No. We refer to our response to question 8.12 with regard to the Council’s Housing Strategy. Because of the deficiencies in Policy TLP10, we believe criterion 1 would still not be effective or consistent with national policy if it referred to TLP10 instead of to the Council’s Housing Strategy.

Question 8.47 What is the justification for the inclusion of the listed sites in criterion II?

1.28 It should be noted that the redevelopment of the Ellice Road car park cannot now be delivered and so should be deleted. Since the Regulation 19 consultation, the creation of a business hub and an urban design project for Station Road East and West have been added to criterion II. However, it is now clear these also cannot be delivered. On 21 August 2019, the Council issued this news release:

“We wanted to update you about the RegenOxted programme, which includes the redevelopment of the former gasholder site, additional parking, a business hub and a town centre redesign. At the moment, the only active project is the development of the former gasholder site by St William. This means we have decided not to continue producing the RegenOxted newsletter and we have removed the website.”

1.29 Of the stated “four key projects” which comprise RegenOxted, only one is now deliverable. That is a self contained housing development of 111 market rate flats on the site of the redundant gasholder and Council car park (referenced in paragraph 18.63 of our Regulation 19 comments on Chapter 18 on affordable housing). This development has already been consented, so it is not clear what additional guidance the Plan provides.
Question 8.48 Is it effective and consistent with national policy in criterion X to refer to the parking standards applied by the Council when these are not specified in the Plan? Consequently, 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?

1.30 No. The Parking Standards document is a Council-adopted document which is prepared and updated outside of the planning system. Its criteria are not specified in the policy and so it is impossible for a decision maker to know how to react to a development proposal.

Question 8.49 Is the approach to seeking financial contributions set out in Policy TLP29 consistent with paragraph 204 of the Framework and the Community Infrastructure Levy Regulations 2010 and would it be effective?

1.31 No. The specified infrastructure requirements are not necessary to make the gasholder development acceptable in planning terms and are not directly related to the development. The approach would not be effective. Improvements to other much needed infrastructure, in particular expansion of health provision, have not been included.

Question 8.50 Are the proposed Modifications necessary for soundness?

1.32 No. The proposed Modifications do not make policy TLP29 sound.

Suggested modification

We suggest reference to the Housing Strategy is deleted together with all references to the Ellice Road Car Park redevelopment, the urban design project for Station Road East and West, and the business hub. Criterion II should be deleted. Criterion III is not deliverable by the Council and should be deleted. Criterion IV and VI should be deleted as the projects they rely on are not happening. There is no evidence to demonstrate the creation of jobs. There is no new office space included although this is listed as an objective for Oxted. There is no indication of how, or if, the objectives contained in the first sentence of Point V will be delivered and it should be deleted. We suggest that the Parking standards are specified and included within the policy. The approach to financial contributions should be rewritten so that it is consistent with national policy requirements. Infrastructure needs should be properly assessed, particularly health provision, and specific items should be included in the policy. The area of brownfield land identified in paragraphs 25.12 – 25.23 of Chapter 25 of our Regulation 19 submission, should be assessed for development.
TLP38: Play and Open Space

**Question 8.68 Is the Policy consistent with paragraph 74 of the Framework in not requiring that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location?**

1.33 No. The policy is not consistent with paragraph 74.

**Suggested modification**
1.34 Paragraphs 27.4 - 27.11 of Chapter 27 of our Regulation 19 submission suggest changes to make the policy sound and consistent with paragraph 74 of the Framework.

**Question 8.69 Is it effective and consistent with national policy to require accordance with the Councils Open Space Assessment and Corporate Open Space Strategy when these are not 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?**

1.35 No. The Open Space Assessment and the Corporate Open Space Strategy are Council adopted documents prepared and updated outside of the planning system which is not effective or consistent with national policy. We included in paragraphs 27.12 - 27.16 of Chapter 27 of our Regulation 19 submission a case study from Hurst Green to underline why it is unsound to rely on such untested documents. Policy TLP38 gives no indication of how a decision maker should react to a proposal.

**Question 8.70 Are the proposed Modifications necessary for soundness?**

1.36 No. The proposed Modifications do not make policy TLP38 sound.

**Suggested modification**
We suggest adding the provisions referenced in point 1.34 above. All reference to unexamined documents should be deleted. If there are provisions in them that the Council wishes to rely on, these should be included in the policy.

TLP39: Providing Playing Pitches and Built Leisure Facilities

**Suggested modification**
1.37 We reiterate our comments on Policy TLP38 with regard to Policy TLP39 as they are similarly applicable. A list of criteria should be added to the policy to assist decision making.