

Tunbridge Wells Borough Local Plan Examination

Hearing Statement prepared on behalf of Hadlow Estate

Matter 9 – Other Matters and Main Modifications Necessary for Soundness

Issue 1 – Material Changes in Circumstances since Stage 2 Hearings

Q1. Has there been any material change in circumstances since the Stage 2 hearings, either at a site-specific level, where the supporting evidence is concerned or in relation to national planning policy and guidance which is relevant to the examination? If so, do any of these changes make the Plan unsound and/or require modification?

Material Changes to National Policy

The Local Plan was submitted for examination in October 2021 and was therefore subject to the provisions of the July 2021 NPPF. An updated NPPF was published in September 2023, and a further update to the NPPF was published in December 2023.

We agree with the Inspector and the Council that the Plan is being examined under the previous version of the NPPF published in July 2021. Consequently, the update to the NPPF does not affect the examination of the Plan.

However, at the Matter 8 Hearing sessions, the Inspector drew attention to a discrepancy in the wording of paragraph 68 of the 2021 version of the NPPF compared to paragraph 69 of the 2023 NPPF, and queried whether this reflected a change of approach to the identification of housing supply and the calculation of the plan period.

Reference has been made to a difference in wording between the two versions of the NPPF. NPPF July 2021 states at paragraph 68:

“Planning policies should identify a supply of:

- a) specific, deliverable sites for years one to five of the plan period³⁴; and*
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.”*

NPPF December 2023 states at paragraph 69:

“Planning policies should identify a supply of:

- a) specific, deliverable sites for five years **following the intended date of adoption**³⁵; and*
- b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period.”*

On this basis, Save Capel and Capel Parish Council sought to suggest that the revised development strategy was only required to identify housing land supply until 2034/2035, calculated from the start of the plan period (2020) and that no early review policy was required.

However, the Estate agrees with the Council that this interpretation of paragraph 68 of the July 2021 NPPF is clearly incorrect for a number of reasons:

- Firstly, and as the Inspector correctly observed, it is clear that the Council is required to put in place policies to address the objectively assessed need for the whole of the plan period. This is clear from paragraph 23 of the 2021 NPPF, which states:

“Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non-strategic policies)¹⁷.”

Moreover, paragraph 22 states:

*“Strategic policies should look ahead over a minimum 15 year period **from adoption**”*

Read alongside paragraph 22 and 23, it is clear that paragraph 68 is referring to the plan period running from the date of adoption when measuring housing land supply. The amendment to this policy brought in by the December 2023 NPPF does not change the approach. Instead, and as the Council explained during the Matter 8 hearing session, it confirms and clarifies the correct approach under the previous version. But in any event, this debate is academic because on any analysis the Council is required to address housing needs for the whole (18 year) plan period, which runs until 2038.

- Secondly, the supply delivered prior to the date of adoption is taken into account when calculating the housing trajectory. It would be entirely counter intuitive to measure housing land supply from before the date of adoption, when supply from these years has already been taken into account in calculating the housing requirement. There would also be little point in adopting policies, which purport to identify housing land supply for years of the Plan which have already passed by the time the Plan is adopted. Such an interpretation would result in absurdity, particularly where (as is the case here) a Plan is only adopted five years into the plan period.
- Thirdly, paragraph 68 must be read alongside paragraph 74 of the July 2021 NPPF, which is concerned with monitoring and maintaining a five year supply of housing and states:

“Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies”

The requirement to monitor and update the five year housing land supply on a rolling, annual basis is forwards looking. This requirement clearly cannot be squared with an interpretation of paragraph 68, which would permit the relevant five year period to be “back dated” to 2020. As the Council noted during the Matter 8 hearing session, if this interpretation was correct it would be possible for authorities to circumvent the 5YHLS requirement altogether, by simply delaying the adoption of Local Plans. This cannot be the correct interpretation.

Conclusion

Subject to, and without prejudice to the points addressed further below as to the lack of soundness in the revised development strategy and the absence of a proper evidence base for that revised

development strategy (which means that the revised housing strategy is unsound), the Estate agrees with the Council that the revised development strategy on its face only provides for 10 years of housing land supply and that in light of the proposed deletion of Tudeley Garden Village (TGV) the Council is self-evidently unable to identify sufficient housing land supply for the whole of the plan period (to 2038) and that is a clear breach of paragraph 23 of the July 2021 NPPF. In order for the Plan to be rendered sound, it is clear that TGV must therefore be reinstated in order to meet the OAN post year 10. Alternatively, and without prejudice to this primary position, the Plan must include a proportionate, focused and effective mechanism to require the Council to undertake an immediate review, which is focused on growth at Tudeley.

Q2. Does the evidence-base supporting the Plan remain up-to-date?

The evidence base supporting the Plan is only partially up-to-date, with some critical elements not reflecting the suggested changes to the Plan and so undermining the soundness of the Plan.

Out-of-date Evidence

As noted in our response to Main Matter 4, Issue 5, the Infrastructure Delivery Plan has not been updated to reflect the proposed revised development strategy.

As noted in our response to Main Matter 4 Issue 5, the Viability Assessment Addendum (Document PS_061) is not up-to-date as it does not appear to have accurately re-costed the infrastructure interventions.

As noted in our response to Main Matter 4 Issue 4, the transport evidence base set out in documents: PS_047, PS_048, PS_049, PS_059 and PS_060, is not up-to-date. There is a lack of clarity in respect of the modelling that has been undertaken to analyse the revised development strategy, and to consider the robustness of the modelling and the highway improvements infrastructure strategy now being proposed. It is noted that PS_060 “strongly recommends” that further detailed modelling is undertaken at the master planning and planning application stage to understand not only the timing of infrastructure, but if “other infrastructure” would also be required to support the revised development strategy:

“Should TWBC wish to proceed with promotion of Paddock Wood and east Capel for allocation, it is strongly recommended that more detailed evaluation of the transport impacts is conducted, at the relevant master planning and planning application stages to determine the appropriate timeline milestones when this infrastructure, and others, would be necessary” (PS_060, Section 5.5)

Given that several critical parts of the evidence base are out of date, the Plan as modified is not currently sound. This unsoundness can be remedied and the Plan brought up-to-date by reverting to the original strategy and reinstating TGV as a strategic allocation. Alternatively, and without prejudice to the above, the Inspector is asked (i) to pause the plan process to allow any remaining shortcomings in the evidence base to support the TGV allocation to be addressed by the Council, in order to reinstate TGV and render the plan sound; or (ii) failing that, to require the Council to undertake an immediate review, focused upon growth at TGV.

Up-to-date Evidence

Notwithstanding our concerns regarding the Infrastructure Delivery Plan, Viability Assessment and transport evidence base to justify the revised Plan, it is important to emphasise that the evidence base supporting the allocation of TGV remains up-to-date, valid and robust, and has been updated by the Council since the Stage 2 hearings in response to the Inspector’s initial findings. Alternatively, insofar as the Inspector considers that there are matters which still remain to be resolved before TGV can be allocated, these are clearly capable of being addressed by the Council without significant further delay.

Most notably, the Sustainability Appraisal remains up-to-date, specifically with regard to the assessment of potential alternative Garden settlement and urban extension locations.

Document PS-013 Table 27 sets out the fourteen ‘Garden settlement and urban extension location options considered by this SA’ which were considered to identify ‘reasonable alternatives’ to be taken

forward for further consideration. The conclusions of these assessments remain entirely valid as summarised below:

Site Ref.	Location	Reasonable Alternative	Reason
1	Blantyre House (former prison)	No	<i>"This site was not considered to merit further assessment as a reasonable alternative for a garden settlement for two reasons. Firstly, the scale of site was too small to meet the minimum 1,500 dwellings required for a garden settlement. Secondly, while a previously developed site, it is too poorly located in terms of accessibility to be considered suitable for significant residential development."</i>
2	Capel/Tudeley	Yes	
3	Frittenden	No	<i>"The very rural location means direct transport links to main settlements and transport hubs are lacking. The existing road network consists only of minor roads and rural lanes and would require substantial investment. For these reasons, this location was not considered to be capable of being a sustainable option for a new, or substantially new, settlement."</i>
4	Horsmonden	No	<i>"Landscape sensitivity would require further consideration because the site is adjacent to (although outside) the AONB.</i> <i>The submitted site does not envelope the existing settlement and thus would not relate well to the existing village, with impacts on local character and heritage highly likely. Areas of flood zone 3 on the site would also need consideration.</i> <i>More generally, the only main settlement within reach is Paddock Wood, access to which was considered to be difficult, along unclassified roads and through smaller settlements, to the extent that such substantial development would be unlikely to be supported by suitable transport infrastructure."</i>
5	Iden Green	No	<i>"However, the site is wholly very rural and within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative."</i>

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6	Kippings Cross	No	<i>“However, the sites are within the AONB and the landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
7	Colliers Green	No	<i>“However, the extremely rural nature of the site, distance to urban settlements and the impacts upon the AONB were considered too severe to warrant further consideration as a reasonable alternative.”</i>
8	Land at Great Bayhall	No	<i>“However, the site is within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
9	Land between Cranbrook and Sissinghurst	No	<i>“However, the site is within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
10	Land between Sandhurst and Iden Green	No	<i>“However, the site is within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
11	Langton Green	No	<i>“However, the site is within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
12	Land in Paddock Wood and Capel surrounding existing settlement at Paddock Wood	Yes	
13	Walkhurst Farm, Benenden	No	<i>“However, the site is within the AONB and its landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>
14	Castle Hill	No	<i>“The site is within the AONB and landscape impacts were considered too severe to warrant further consideration as a reasonable alternative.”</i>

These conclusions remain valid. This table demonstrates that all alternative locations for a new strategic site have been identified and considered, with robust justification provided as to whether they are 'reasonable' or require further assessment through the Sustainability Appraisal process.

There remains no evidence before the Inspector that there are any reasonable alternative locations to meet the identified housing need post year 10 of the Plan, which have not been considered by the Council through the Sustainability Appraisal process. Therefore, the Sustainability Appraisal remains up-to-date and robust in relation to its assessment that there are no alternative sites to TGV to meet the identified need. The same is of course true of the Stage 3 Green Belt assessment.