

Representor number  
PSLP\_2048 to PSLP\_2052

# **MATTER 8 – MEETING HOUSING NEEDS**

## **TUNBRIDGE WELLS LOCAL PLAN**

Prepared by Pro Vision on behalf of Cooper Estates Strategic Land Limited

MAY 2022

Representor number  
PSLP\_2048 to PSLP\_2052

**TUNBRIDGE WELLS LOCAL PLAN**

**MATTER 8 – MEETING HOUSING NEEDS  
PROJECT NO. 2133**

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CONTENTS

**1.0 Introduction..... 1**

**2.0 Matter 8 Issue 1 – Housing Mix ..... 3**

**3.0 Matter 8 Issue 2 – Housing Density ..... 4**

**4.0 Matter 8 Issue 3 – Affordable Housing..... 5**

**5.0 Matter 8 Issue 4 – Estate Regeneration ..... 8**

**6.0 Matter 8 Issue 5 – Rural Exception Sites ..... 9**

**7.0 Matter 8 Issue 6 – Housing for Older People and People with Disabilities..... 10**

**8.0 Matter 8 Issues 7-11..... 17**

APPENDICES

- Appendix 1. Operator’s Proof of Evidence to Broke Hill Inquiry (Sevenoaks District)
- Appendix 2. Graph comparing 2014 and 2018 Projections of Over-75s Population in TWBC Area
- Appendix 3. KCC Accommodation-Strategy 2019-2021
- Appendix 4. KCC Accommodation with Care and Support - Market Position Statement 2021-26
- Appendix 5. TWBC Population (Total and Over-75s) in 2038 – 2018 Projections
- Appendix 6. TWBC Population (Total and Over-75s) in 2038 – 2014 Projections

## 1.0 Introduction

- 1.1 This Hearing Statement has been prepared by Pro Vision on behalf of Cooper Estates Strategic Land Limited (“CESL”) who are promoting Land at Sandown Park<sup>1</sup> for a Care Community<sup>2</sup> within Use Class C2 to provide 108 Extra Care (“EC”) units with communal care and wellbeing facilities.
- 1.2 The Inspector will be aware through correspondence<sup>3</sup> on behalf of CESL, that we have long been concerned that plan-making by Tunbridge Wells Borough Council (“TWBC”, “the LPA” or “the Council”) has failed its legal duties. Our submissions in relation to Matter 1 concluded that the Local Plan Examination should not proceed as the Submission Plan is not legally compliant.
- 1.3 We do not seek to repeat these concerns, but in order to assist the Inspector we provide cross-references to the CESL representations and additional communications previously made where they relate to the specific Stage 2 Examination Questions.
- 1.4 This Representation responds to the Inspector’s questions within Matter 8 and has been prepared in the context of the tests of ‘Soundness’ as set out in Paragraph 35 of the National Planning Policy Framework 2021 which requires that a Plan is:
- Positively Prepared
  - Justified
  - Effective
  - Consistent with national policy
- 1.5 This hearing statement has been prepared in consultation with Gregory Jones QC, Francis Taylor Building, Temple. It is also informed by a specific and specialist assessment of need for older persons Extra Care accommodation in the Borough prepared by Carterwood.
- 1.6 In summary, we have identified defects in how the housing need has been calculated, and specifically, that flaws in the assessment of need for older people will perpetuate a position of

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<sup>1</sup> Regulation 22 version of the SHELAA (Jan 2021) – [Core Document 3.77n - Site 114](#)

<sup>2</sup> Specifically “EC accommodation” as a category of specialist housing for older people, as defined by the [Planning Practice Guide at Paragraph: 010 Reference ID: 63-010-20190626](#)

<sup>3</sup> Representation [PSLP\\_2048](#), full document at [SI\\_140](#)

Representor number  
PSLP\_2048 to PSLP\_2052

under-delivery in EC over the plan period such that the issue will significantly worsen. This is not positive nor effective planning for a key and growing part of the local community.

## **2.0 Matter 8 Issue 1 – Housing Mix**

**Q1. Is it sufficiently clear to decision-makers, developers and local communities what is required of applications for planning permission under Policy H1?**

2.1 No comment.

**Q2. How has the size, type and tenure of housing needed for different groups in the community been assessed and how is it reflected in planning policies, as required by paragraph 62 of the Framework?**

2.2 No comment.

### **3.0 Matter 8 Issue 2 – Housing Density**

**Q1. Is it sufficiently clear to decision-makers, developers and local communities what is required of applications for planning permission under Policy H2?**

3.1 No comment.

**Q2. How does the Plan seek to optimise the use of land for development in town centres and other locations that are well served by public transport?**

3.2 No comment.

## 4.0 Matter 8 Issue 3 – Affordable Housing

**Q1. What is the justification for requiring 40% affordable housing on qualifying greenfield sites and 30% on qualifying brownfield sites in Policy H3? What are the figures based on, how were they calculated and what alternatives were considered?**

4.1 As well as needing to justify the 30% / 40% requirement, it is entirely unclear which land uses will require affordable housing contributions.

4.2 Further, in their June 2021 Regulation 19 comments<sup>4</sup>, CESL indicated that there *“appears to be no assessment of the impact of Policy H3 on the viability of C2 proposals i.e. the unique development and operating costs of a C2 residential care community have not been taken into account in the Plan.”*

4.3 This concern was raised in light of the Council’s decision at paragraph 6.352 of the Submission Plan to categorise EC development as Use Class C3. It is clear that the Council’s intention is to seek affordable housing from sites it deems as providing Use Class C3 development, but not from sites which it deems provide Use Class C2 development. Whilst that is noted, in this case, the Council appears undecided on whether proposals for EC would fall within Use Class C2 or C3, which creates uncertainty for applicants over how their proposals will be assessed / classed by the Council and whether or not affordable housing would be provided.

4.4 As further context, it is important to note that, in relation to the Omission Site 114, CESL have entered into a pre-emption agreement with Audley Villages. [Audley Villages](#) are the intended operator of the proposed Care Community at Sandown Park which is currently subject to an appeal. Audley are a well-respected, and award-winning operator of 19 Care Community Villages for older persons within the UK. Their villages fall within use class C2.

4.5 Whilst it is clear to CESL that the proposed Care Community on the Sandown Park omission site is a C2 use, and this has now been accepted by the Council, the submission plan still leaves a degree of uncertainty because Policy H3 refers generally to “sites” and “dwellings” – the policy is therefore not clear that it only applies to C3 dwellinghouses, and not to C2 EC dwellings. The wording of Policy H3 is therefore flawed.

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<sup>4</sup> Representation [PSLP\\_2048](#), full document at [SI\\_140](#)



- 4.6 We consider it also relevant for the Inspector to note that between October and November 2021, a planning appeal was heard within the same Housing Market Area as Omission Site 114, but sited within Sevenoaks District<sup>5</sup>. The proposed operator of the EC village within the Broke Hill scheme was Inspired Villages. There, the Proof of Evidence from the Land and Planning Director for Inspired Village (Stuart Garnett BSc DipTP MRTPI)<sup>6</sup> indicates that a typical EC village contains approximately 20% non-saleable floorspace in the form of communal facilities (e.g. café/bar, restaurant, wellbeing centre including treatment rooms, fitness studio and pool, library, activity room and hairdressers).
- 4.7 In addition, the decision to that appeal recognised, at Paragraph 104, *“the difficulties which such schemes have in competing for sites with house builders given the amounts of upfront capital investment required”*. Those construction costs were explained, in evidence, as being up to 50% higher than house builders due to:
- i. the need for the non-saleable spaces within the development to be available to occupiers from the outset, rather than being provided as part of later phases; and
  - ii. the need for all units to be adaptable over their lifetime<sup>7</sup>, rather than a proportion.
- 4.8 In addition, the Proof by Mr Garnett to the Broke Hill scheme refers to the higher operational costs of an EC scheme, when compared to a conventional housing scheme, due to the need for maintenance, upkeep and management of the significant communal facilities and ongoing staffing costs.
- 4.9 Lastly, sales rates for completed units are slower than those of conventional housing, due primarily to the age restriction for occupiers.
- 4.10 As a result, therefore, Policy H3 is not clear in relation to EC schemes (which are C2 use) and when affordable housing is triggered. The policy should make clear that affordable housing would not be sought from developments falling within Use Class C2.
- Q2. Paragraph 65 of the Framework states that where major development involving the provision of housing is proposed, planning policies should expect at least 10% of the total**

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<sup>5</sup> Quinn Estates appeal at Broke Hill [W/21/3273188](https://www.planningportal.co.uk/consultations/21/3273188)

<sup>6</sup> Appendix 1

<sup>7</sup> Ie to Building Regulation Part M4(2) Standards

**number of homes to be available for affordable home ownership. How will this be secured by the Plan?**

4.11 No comment.

**Q3. What is the justification for developments of 6-9 units providing a financial contribution towards affordable housing in the High Weald AONB? What is this threshold based on?**

4.12 No comment.

**Q4. Where First Homes are concerned, the PPG states that where local plans have reached advanced stages of preparation, they will benefit from transitional arrangements and will not need to reflect the First Homes policy requirement. It also states that in such circumstances, consideration should be given to the need for an early update of the Plan. Is this necessary for soundness?**

4.13 No comment.

**Q5. What is the justification for requiring a minimum of 50% of the affordable housing to be delivered on-site prior to completion of 50% of the open market units approved? Is this viable and deliverable?**

4.14 No comment.

**Q6. What is the justification for requiring all forms of affordable housing to be provided on the basis of a local connection?**

4.15 No comment.

Representor number  
PSLP\_2048 to PSLP\_2052

## **5.0 Matter 8 Issue 4 – Estate Regeneration**

**Q1. Where estate regeneration is proposed, is it clear under what circumstances a loss of affordable housing will be permitted by Policy H4? Is this justified?**

5.1 No comment.

Representor number  
PSLP\_2048 to PSLP\_2052

## **6.0 Matter 8 Issue 5 – Rural Exception Sites**

**Q1. How will the Council ensure that housing permitted to meet local needs under Policy H5 remains available for such purposes thereafter?**

6.1 No comment.

## 7.0 Matter 8 Issue 6 – Housing for Older People and People with Disabilities

**Q1. Paragraph 62 of the Framework states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies, including housing for older people and people with disabilities. What is the need for housing for older people and how will this be met over the plan period? Has the Council considered the need for different types of accommodation, such as sheltered accommodation?**

7.1 No. There is no need assessment for sheltered accommodation<sup>8</sup>.

7.2 The need for older persons housing is discussed in detail in the CESL Matter 1 statement in respect of the Equality Act, and also in the Matter 2 Statement, with additional Site-Specific comments in Matter Statement 7 and expanded on below to insist the Inspector with this question.

7.3 TWBC has made numerous errors in relation to planning for specialist accommodation for older persons. Specifically, there is a mismatch between the Council's Standard Method which uses 2014-based projections population data to calculate the overall housing needs and that used to calculate the need for older persons housing (specifically EC). TWBC have used the 2018-based projections to project older persons EC housing need, and these specifically forecast a lower population over-75 in 2038 than the 2014 projections<sup>9</sup>. However, TWBC has used the (higher) 2014 projections for assessing need for residential care, which is assessed separately from EC (which is assessed against the lower 2018 projections). This disjointed increases the need for residential care beds and suppresses the need for extra care. This approach is contrary to Government policy<sup>10</sup> which indicates that "*supported housing [which includes Extra Care] can be the best model of care*" and "*can be better value than institutional care (such as residential care)*". The approach taken by TWBC is therefore disjointed, not robust and as such is unsound.

7.4 Paragraph 62 of the Framework is clear that the needs of different groups "*should be assessed*". Para 6.358 of the Submission Local Plan states that the Council has used the SHOP@ forecasting tool and assumed a prevalence rate of 2.5% (25/1000 population aged 75+) based

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<sup>8</sup> The 2015 SHMA had a prevalence rate of '*around 170 units of specialised accommodation (other than registered care home places) per thousand people aged over 75 years*'

<sup>9</sup> See Appendix 2

<sup>10</sup> [People at the Heart of Care: Adult Social Care Reform White Paper \(CP560, Dec 2021\), para 4.12](#)

Representor number  
PSLP\_2048 to PSLP\_2052

on the 2018 projections. This was removed as an online toolkit in 2019<sup>11</sup>. As such, the Council has not demonstrated compliance with Paragraph 62 of the Framework: it has not actually “assessed” the need.

7.5 The Council did not commission a need assessment. It has not assessed the need for Sheltered Housing, has used different population projections for the need for Care Homes and EC, and has simply adopted the SHOP@ prevalence rate to determine a need for 431 EC units. As such, TWBC have failed to appreciate the demographic-led nature of the EC sector; and consequently, have failed to appreciate the correct basis to evaluate existing supply and projected needs for older persons housing to 2038. The recent appeal decision in South Oxfordshire is helpful in this regard<sup>12</sup>. The Inspector stated at Paragraph 44:

*“The Council sought to undermine the Appellant’s need case with reference to earlier data from Housing LIN and the @SHOP tool. This on-line tool is highlighted in the PPG as a basis for calculating need. But the fact is it only provides a figure based on existing prevalence and then seeks to project that forward with a proportion increase based on the increase in the 75+ age group in the District. **This is not a measure of need.**”* (Our emphasis).

7.6 In the South Oxfordshire Appeal, the Inspector accepted a prevalence rate of 45 EC units per 1,000 population aged 75+ (4.5%) across both the affordable and private sectors, split on a ratio of one third affordable, two thirds market. The Inspector commented at Paragraph 38 of the decision that:

*“This takes into consideration the research in “More Choice: Greater Voice” and revisions in “Housing in Later Life”. I note that the 45 units per 1,000 is to be derived as suggested in order to bring supply into closer alignment with tenure choice among people.”*

7.7 The Local plan Inspector is asked to note Paragraph 2.20 of the Housing Needs Assessment Topic Paper<sup>13</sup> which acknowledges that Iceni Projects were commissioned to produce an up-to-date review of local housing needs. The Iceni report was produced in December 2020 and is Exam document 3.75. However, in Section 3 Part 2 of the Housing Needs Topic Paper, there is no mention of the Iceni report within the section which relates to “The housing needs of

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<sup>11</sup> See Matter 2, Issue 1, Question 1 response

<sup>12</sup> APP/Q3115/W/20/325861

<sup>13</sup> Exam Document [CD3.73](#)

older people". Despite the acknowledgement in Paragraph 3.30 that the 2018 demographic projections show a 40.7% increase in population aged over 65 in the Borough within the Plan period (an increase of 9,458 people) the Council has merely adopted a 2.5% prevalence rate to provide, by 2038, a total of 431 EC units (market and affordable)<sup>14</sup>.

- 7.8 We consider that the Council has not provided any justification for adopting the 2.5% prevalence rate. Instead, CESL consider that a prevalence rate for market EC of 4% should be adopted as this more closely accords with the requirements outlined in Government literature and studies citing the importance of additional private EC, where existing availability is lower, despite high levels of elderly home ownership<sup>15</sup>.
- 7.9 Based on the Icenl December 2020 report prepared for the Council<sup>16</sup>, the estimated need for market EC at a prevalence rate of 4% of the total 75+ population, there should have been at least 447<sup>17</sup> market EC units forming part of a combined market and affordable total of **approximately 726 EC units in 2020<sup>18</sup>**.
- 7.10 We also note that based on the Icenl report, **by 2037** the Borough would have a population of 17,400 over-75s. Again using the prevalence rate of 4% of the total 75+ population, there should be at least 696 market EC units<sup>19</sup> (of a total of approximately **1,131 EC Units<sup>20</sup>**).
- 7.11 Planning for just 431 total EC units (264 additional) within the Plan period will therefore result in a significant deficit in specialist accommodation for older persons. We consider that the Graph attached at Appendix 2 highlights the under-provision which will result if the prevalence rates of 2.5% is taken forward, and shows how the needs of the Borough can be met by adopting a higher prevalence rate and planning for more EC accommodation in the Borough.
- 7.12 Appendices 3 and 4 have been included with this Statement as, although they underpin elements within the SV Local Plan, they are not within the Evidence Base. However, and in any event, the conclusions of these documents (in terms of projected needs) have been directly criticised by at least 2 recent planning appeal decisions within the same Housing Market Area

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<sup>14</sup> At para 6.359 of the SV of the plan [CD3.128](#)

<sup>15</sup> Carterwood Planning Need Assessment, Land at Sandown Park

<sup>16</sup> Table 5.1 of the Review of Local Housing Needs, prepared by [Icenl December 2020](#)

<sup>17</sup> 4.0% of 11,168; understood to be the over-75s population in the Borough at the start of 2020

<sup>18</sup> 6.5% of 11,168; understood to be the over-75s population at the start of 2020

<sup>19</sup> 4.0% of 17,400; the over-75s population expected to be in the Borough in 2037/8 (2018-based projections)

<sup>20</sup> 6.5% of 17,400; the over-75s population expected to be in the Borough in 2037/8 (2018-based projections)

as Omission Site 114. These 2 documents are both directly referred to in Paragraph 105 of the Quinn Estates appeal at Broke Hill<sup>21</sup>, which states that “[t]he Market Position Statement 2021-26 [Appendix 4 to this Statement; MPS] doesn’t distinguish between affordable and market sectors making the County’s assessment of demand for market extra care unclear as referenced in its Social Care Accommodation Strategy [Appendix 3 to this Statement]”.

- 7.13 In paragraph 107 of that appeal decision, the appellants’ methodology there, adopting a prevalence rate of 3% of the over-75 population as market EC and 1.5% of the over-75 population for the affordable EC sector (i.e. 4.5% of the over-75s as total EC planned provision), was described as “[pointing] to a level of demand more in line with the District’s demographic”.
- 7.14 The criticisms of the Market Position Statement (MPS) are repeated in the Edenbridge Golf Course decision<sup>22</sup>. Alongside the recognition<sup>23</sup>, again, that the MPS “covered both market and affordable requirements” and “did not split the need into these types”, the MPS was criticised further<sup>24</sup> as it was also “not clear what the methodology has been to determine future demand and the extent to which this has been informed by local assumptions”. Although this then referred to Sevenoaks District, the lack of clarity is equally applicable to the figures for TWBC on which the Council rely<sup>25</sup>.
- 7.15 In the Edenbridge Golf Course appeal, again 4.5% of the over-75s as total EC planned provision (3% market plus 1.5% affordable) was then promoted<sup>26</sup>, with the Inspector concluding (at paragraph 49) that “the appellants’ figures based on 4.5 per cent may be conservative but I am unable to reach any firm conclusions on this” (our emphasis added).
- 7.16 We note that at Para 6.359 of the SV Local Plan<sup>27</sup> TWBC state there are 164 EC units within the Borough. Through the current s78 appeal on the omission site, CESL conclude there are currently 200 EC units currently in the Borough, of which 121 are market units<sup>28</sup>.

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<sup>21</sup> [W/21/3273188](#), issued 31.01.2022

<sup>22</sup> [W/21/3271595](#), issued 02.11.2021

<sup>23</sup> At para 39

<sup>24</sup> At para 43

<sup>25</sup> At para 6.360 of the SV Local Plan ([Exam Document 3.128](#))

<sup>26</sup> The appellants suggested (reported at para 47 of the decision) that the total provision should be as 8% to take an ageing population into account.

<sup>27</sup> [CD3.128](#)

<sup>28</sup> The 121 market units comprise:

- 67 units at Audley Willicombe Park TN2 3UU;



- 7.17 200 units would represent 1.7% of the Borough's 2020 population of 11,482 over-75s<sup>29</sup>, according to the figures in Table 4 of the Housing Needs Assessment Topic Paper<sup>30</sup>. Adding around 267 additional units of EC<sup>31</sup>, as proposed by the Submission Plan to 2038, would bring the total to 467 units. That would only equate to 2.7% of the expected 17,268 over-75s that the Office of National Statistics (ONS) predict, in the 2018 population projections<sup>32</sup>, as being in the Borough in 2038.
- 7.18 4.5%<sup>33</sup> of the 17,268 would suggest at least 777 EC units should be provided by 2038. This is 577 more than the current total supply and 310 more than the 267 additional units that the Council believes necessary.
- 7.19 Of these 777 EC units, at least 518 EC units should be market EC (i.e. 3% of the population aged 75+). This represents 397 additional market EC units beyond the current 121 market supply. Thus, even with the 161 market EC units from St Johns Road and St Michaels, at least a further 236 market units would need to be provided.
- 7.20 There is no confidence that the 3 potential EC allocations in the plan<sup>34</sup> would provide this quantum of market EC (See CESL Matter 3 and Matter 7 Statements for further on these sites)

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- 49 units at The Dairy, 103 St Johns Road (TN4 9FJ); and
  - 5 units at Hale Court, 7 Culverden Park Rd (TN4 9QX)

The 79 affordable units comprise:

- 48 units at Bowles Lodge, All Saints Road, Hawkhurst, Cranbrook (TN18 4HT)
- 17 units at Milward House, 6 Madeira Park, Tunbridge Wells (TN2 5SZ); and
- 14 units at Hale Court, 7 Culverden Park Rd (TN4 9QX)

<sup>29</sup> A current shortfall of 87 units if 2.5% prevalence rates are used, or a shortfall of 317 units if 4.5% prevalence rates are used.

<sup>30</sup> [Exam Document 3.73](#), noting that this table also includes 65-74 year olds

<sup>31</sup> SV Version of the Plan, [CD3.128 para 6.359](#). CESL believe that TWBC expects these EC units to be delivered by extant permissions and proposed allocations. The extant permissions for additional EC are:

- 89 units at 36-40 St Johns Road (TN4 9NX). This site comprises AL-RTW4 and would be an all-market scheme due online around 2025); and
- 72 units at St Michaels, Burrswood (TN3 9PY). Again this is an all-market scheme, arising from permission [20/03643/LAWPRO](#), issued 05.03.2021. However, the appeal decision to Land to the East of Highgate Hill ([W/21/3282908](#), issued 22.03.2022) confirms, at para 90, this would not be expected to deliver before 2028 due to the absence of a Listed Building Consent for the conversions. Such an application remains absent at the time of writing.

<sup>32</sup> See Appendix 5

<sup>33</sup> a prevalence rate described within the same Housing Market Area as "conservative" in the Edenbridge Golf Course appeal, and one likely to under-estimate need

<sup>34</sup> 1 within each of SS1 and SS3, and a 3<sup>rd</sup> within AL-PE6

and the position is even worse when the projections are applied to the 2014 population projections.

- 7.21 The CESL Matter 2 Statement details why the 2014-projections should be used instead. These suggest that the Borough over-75 population in 2038 will be higher than that suggested in the 2018 projections, at 19,243 people (see Appendix 6).
- 7.22 4.5% of this higher population figure suggests at least 866 units (total) EC by 2038. This is 666 more than the current total supply and 599 more than the 267 additional units that the Council believes necessary.
- 7.23 Of these 866 EC units, at least 577 EC units should be market EC (i.e. 3% of the 2014-based population). This represents at least 456 additional market EC units beyond the current 121 market supply. Thus, even with the 161 market EC units from St Johns Road and St Michaels, at least a further 295 market units would need to be provided.
- 7.24 Thus, even in the event that 100 market units are delivered from each of the Strategic Sites SS1 and SS3 by the end of the plan period<sup>35</sup>, at least a further 95 market units would need to be provided elsewhere. The CESL Matter 7 Statement details, in the responses to Questions 31-33, why none of the potential 80 EC units at Woodsgate Corner<sup>36</sup> are likely within the plan period and should be discounted.
- 7.25 The pressure for other sites is even greater in the event that higher prevalence rates than the conservative 3% for market EC provision outlined above are necessary to address the existing shortfall and to account for the ageing population.
- 7.26 In summary, by starting from an incorrect baseline position (2018 projections not 2014) and applying only the SHOP@ 2.5% prevalence rate rather than undertake an assessment of need, TWBC have failed to plan for sufficient specialist accommodation for the elderly, with specific deficiency in EC provision, within the plan period.

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<sup>35</sup> Though see CESL Matter 3 Statement in this regard

<sup>36</sup> AL-PE6

Representor number  
PSLP\_2048 to PSLP\_2052

7.27 Thus, without the addition of more EC sites particularly market EC sites, the current under-supply of specialised accommodation for older people can be expected to worsen over the plan period, which is neither positive, justified nor effective planning in the context of what the government acknowledges to be a “critical” social issue<sup>37</sup>.

**Q2. What is Policy H6(3) based on? Is it justified on all new build developments, and will the requirement be deliverable?**

7.28 No comment.

**Q3. What is the justification for requiring all new build development to meet the optional technical M4(2) standard? Is the requirement viable and what contribution will it make to identified needs?**

7.29 No comment.

**Q4. What is the justification for requiring 5% of affordable housing on schemes of 20 or more units to meet the optional technical M4(3) standard? Is the requirement viable and what contribution will it have to identified needs?**

7.30 No comment.

**Q5. How does the Plan take into account site specific factors such as vulnerability to flooding, site topography and other circumstances (such as step-free access) which may make a specific site less suitable for M4(2) and M4(3) compliant dwellings?**

7.31 No comment.

**Q6. Is it necessary to distinguish between wheelchair accessible (a home readily useable by a wheelchair user at the point of completion) and wheelchair adaptable (a home that can be easily adapted to meet the needs of a household including wheelchair users) dwellings?**

7.32 No comment.

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<sup>37</sup> Planning Practice Guidance. Paragraph: 001 Reference ID: 63-001-20190626

## **8.0 Matter 8 Issues 7-11**

8.1 CESL have no comments to make in relation to these Matters:

- Matter 8 Issue 7 – Rural Workers Dwellings
- Matter 8 Issue 8 – Self-Build and Custom Housebuilding
- Matter 8 Issue 9 – Replacement Dwellings
- Matter 8 Issue 10 – Residential Extensions and Alterations
- Matter 8 Issue 11 – Gypsy and Travellers