

Tunbridge Wells Local Plan Examination

Response to Matter 5: Site Selection Methodology

Berkeley Homes (Eastern Counties) Ltd

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1.0 **Introduction**

- 1.1 This statement to Matter 5 (Site Selection Methodology) of the examination of the Tunbridge Wells Local Plan ('the Plan') is submitted by Lichfields on behalf of Berkeley Homes (Eastern Counties) Ltd. It follows the submission of representations to the Regulation 19 Draft Local Plan (March to June 2021) in respect of land at Turnden, Land adjacent to Hartley Road, Cranbrook (allocation AL/CRS 3), in which Berkeley Homes (Eastern Counties Ltd) has land interests.

2.0 **Site Selection Methodology**

Question 1: How were different sites considered for inclusion as allocations? What process did the Council follow in deciding which sites to allocate?

- 2.1 In the course of preparing its emerging Local Plan, TWBC has undertaken a comprehensive and extensive process of site selection. We have reviewed this work carefully, and conclude that the work has been thorough, robust and comprehensive.
- 2.2 In identifying suitable sites necessary for housing development, there are a number of considerations to take into account including the ability to deliver the sites and that any such development should be sustainable.
- 2.3 An overview of the Council's approach to spatial strategy and site selection is provided in the Development Strategy Topic Paper (revised October 2021) (EiP ref. 3.126) ("the Topic Paper"). In the Introduction to this Topic Paper it is confirmed that, quite rightly and robustly in our view, the proposed development strategy has evolved as the consequence of an iterative process, drawing on consultation responses to the earlier 'Issues and Options' and 'Draft Local Plan' documents, the outcomes of a range of studies and reports, specific site assessments (under the Strategic Housing and Economic Land Availability Assessment), due regard to relevant national policies and guidance and recommendations from the Sustainability Appraisal (SA).
- 2.4 This document clearly identifies that consideration has been given to the potential to accommodate development needs within the Borough, notably for housing, without undue impacts on the functioning and purposes of the Green Belt and the defining characteristics of the High Weald AONB.
- 2.5 As part of the process, sensibly, the Council considered the settlement hierarchy of the Borough and identified 'Groupings' of settlements, based on scores and evidence collected on key services, such as Post Office and convenience stores, schools, train station, comparison and convenience shops, doctors surgery, pharmacy, dentist and opticians. Importantly, these groupings give an indication of the level of sustainability and appropriateness of these settlements to accommodate further growth in terms of access they provide to services and facilities that support their sustainability.
- 2.6 However, having regard to the overall guidance in the NPPF, the Topic Paper recognises that, while these groupings give an indication of the level of the relative sustainability of settlements in terms of access to goods and services and hence the need to travel, it is only the starting point for identifying growth potential.
- 2.7 Further, the Topic Paper also reviews the extent to which brownfield and existing urban sites were being allocated for development, and their capacities, demonstrating that suitable sites for allocation are being promoted and that their densities show effective use of land, appropriate for their location. In this regard, the Pre-Submission Local Plan includes reference to promoting the effective use of urban and previously developed (brownfield) land (having due regard to relevant Plan policies) as part of the overall development strategy at Policy STR1. As an integral part of the development strategy, a new brownfield land policy is proposed.
- 2.8 Noting that 69% of the Borough is within the AONB, paragraph 5.15 confirms that the Draft Local Plan sought to meet development needs as much as possible within the context of the various constraints in the Borough, including the Green Belt, AONB and areas of flooding. In view of the limitations on the growth of existing settlements, relative to the identified local housing need, together with the fact that feedback from the earlier consultation on an 'Issues

and Options' document gave "in principle" support for a new settlement, options for potential locations for larger scale development were also evaluated.

- 2.9 In overall terms, the Sustainability Appraisal (EiP ref. 3.130) can be seen to support:
- meeting the standard method housing need figure of 678 dwellings pa;
 - seeking to provide for more urban intensification, especially in Royal Tunbridge Wells, as the largest town;
 - looking to have less development in the AONB, both at larger settlements of Cranbrook and Hawkhurst and at some smaller villages, subject to further consideration of site-specific merits and 'exceptional circumstances'; and
 - including strategic sites in principle over strategies without them, subject to further consideration of Green Belt impacts, respective merits and consequential 'exceptional circumstances'.
- 2.10 In terms of identifying what was regarded as suitable housing sites, it is noted that the Council assessed around 500 sites through the Pre-Submission Local Plan SHELAA process. Full details of the submitted sites, as well as those contained in previous Local Plans (which were not yet implemented) and additional sites identified by officers are set out in the 'SHELAA for the Pre-Submission Local Plan' (EiP ref. 3.77). This report also presents information about each site, its suitability, availability, achievability, with overall conclusions on their appropriateness for allocation within the Local Plan. The conclusions have regard to the findings of the Sustainability Appraisal.
- 2.11 Sites have been assessed in collaboration with relevant service providers, such as officers of Kent County Council. Discussions have also been held with parish/town council/ neighbourhood plan groups (including with Royal Tunbridge Wells Town Forum).
- 2.12 There is a substantial local housing need in Tunbridge Wells Borough, which stands at over 12,200 dwellings over the Plan period. 69% of the Borough is designated as AONB land. In our view, the Council has undertaken a careful and thorough exercise to identify and consider all options for suitable sites for development and have applied the correct process and analysis in deciding what sites to allocate.
- 2.13 In relation to the High Weald AONB, the Topic Paper states in paragraph 7.9 that as there are a number of settlements within the AONB with varying levels of services and facilities, it follows that some development should be proposed there. In line with both national policy and the characteristics of the High Weald, most developments are small scale, but some larger developments in the AONB have been found to be suitable and capable of satisfactorily accommodating larger scale development.
- 2.14 In selecting sites to allocate, it would not be right to simply exclude all 'constrained land' (such as Green Belt and AONB) from that assessment. This is not what National Policy requires and meeting the identified need, where it is required, together with selecting sustainable locations are also key considerations in the site selection process.
- 2.15 By way of an example of the site selection process, Cranbrook was identified as a sustainable settlement with an identified housing need, through the Local Plan review. The SHELAA considered a number of sites in Cranbrook and assessed these in detail in order to identify appropriate locations for growth. This process was thoroughly tested at the Turnden Inquiry, and stood up to detailed examination by expert witnesses. It was concluded by the Appellant's expert team that none of the potential alternative sites could have come forward with less harm to the AONB than the site at Turnden.

Question 2: How were site areas and dwelling capacities determined? Are the assumptions justified and based on available evidence?

- 2.16 The Development Strategy Topic Paper (EiP ref 3.126) sets out an overview of how TWBC have determined appropriate site areas and capacities for the allocations in the Submission Local Plan. Overall, when assessing the area and capacity of sites for development, consideration has been given to key factors including flood risk, connectivity, the capacity of infrastructure, the functioning and purposes of the Green Belt and the defining characteristics of the High Weald AONB,
- 2.17 The SHELAA (EiP ref. 3.77) sets out how the developable area of each site was initially established, taking into account key constraints such as Flood Zone 3 and SSSIs. The site area was then used to calculate and approximate the amount of development for each site. A more refined density calculation has been used at a later stage in plan making to inform site allocation policies. This has taken account of the context of each site and its opportunities and constraints, such as location, surrounding character and environment. Details and outcomes of these assessments can be found in the site assessment sheets appended to the SHELAA e.g. the Cranbrook sheets at EiP ref. 3.77f.
- 2.18 In relation to land in built-up areas and suitable brownfield sites, the Topic Paper sets out how TWBC reviewed whether site capacities were actually reflecting their context, including not only existing built form but the potential for higher densities, reflective of the location, to optimise the density of development. The sites considered in this review include all existing sites allocated in the Site Allocations Local Plan and those promoted through the Local Plan Review. The outcome of this work is set out in the 'Brownfield and Urban Land Topic Paper' (EiP ref. 3.83). The further assessment of brownfield sites is also reflected in the updated SHELAA (EiP ref. 3.77).
- 2.19 This process for allocating sites in the AONB has been informed by more detailed site analysis in the evidence base such as the LVIA (EiP ref. 3.96). For the 17 draft site allocations that were initially considered to be 'major' (in AONB terms), an independent Landscape and Visual Impact Assessment (LVIA) was commissioned (EiP ref. 3.96). This work, carried out by Hankinson Duckett Associates, provides advice concerning the potential landscape and visual issues pertaining to each study site, as a result of the development proposed within the site allocation, in order to assist the council with their decision making (see below for further detail).
- 2.20 In our view, the site areas and capacities in the Submission Local Plan have been determined through a thorough and robust process, informed by a landscape-led approach to allocations within the AONB. By way of an example, site capacity of the Turnden allocations was tested at the Planning Inquiry for the Site, where the proposed developable area and site capacity was considered extensively by expert witnesses. In our view, the capacity of the site stood up to scrutiny. Further details will be provided for the site-specific hearings.

Question 3: In deciding whether to allocate sites for development, how did the Council take into account the effects of development on:

Landscape Character, including the High Weald AONB and its setting

- 2.21 A detailed Landscape Sensitivity Study (EiP ref. 3.102) was undertaken in 2017 which provided an assessment of the character and quality of the landscape, to inform the Local Plan. For all 17 draft site allocations that were initially considered to be 'major' (in AONB terms) for major

developments, an independent Landscape and Visual Impact Assessment (LVIA) was commissioned (EiP ref. 3.96). This reassesses their suitability for development and considers further measures for avoidance and mitigation of possible adverse effects as well as to consider what further benefits they might provide. Natural England and the AONB Unit were consulted on the methodology for the LVIA as the work progressed so that comments could be taken into account before reaching any final conclusions. Overall, this document is thorough and robust and this was tested at the Planning Inquiry for the Turnden site.

Availability of best and most versatile agricultural land

2.22 The Development Constraints Study (EiP ref. 3.32) states that varying qualities of agricultural land are found across the borough, with the majority of land Grade 3. The document concludes on this matter (para. 2.35-2.36):

“Although the borough contains some areas of higher quality agricultural land, it is not considered that this quantum of high quality agricultural land would constrain development in the borough to a given capacity.

In the High Weald, it is common for agricultural land to be of a lower quality; however, the land still remains important economically for grazing under traditional management and remains important for the visual contribution to the landscape and character of the borough.”

2.23 The Council have considered the availability of the best and most versatile agricultural land in deciding whether to allocate sites for development. Further information including a map is available in the Development Constraints Study (EiP ref 3.32).

Local and strategic road network

2.24 Numerous transport documents are included within the Local Plan evidence base, in particular the Transport Assessment (EiP ref. 3.48). This document was commissioned by the Council to gather evidence on, and evaluate, the potential transport impacts of the emerging draft Local Plan and investigate mitigation measures to alleviate such impacts.

2.25 A number of mitigation measures are identified in this assessment, including highway capacity improvements and new roads, smarter use of existing highway, Bus Rapid Transit schemes, segregated long distance and town centre cycle routes and pedestrian improvements. The traffic modelling has tested the hard engineering measures and the effects of the walking, cycling and bus improvements, and has shown that the measures proposed will mitigate the impacts of the Local Plan housing and employment allocations.

2.26 We note that a Statement of Common Ground has been prepared between TWBC and Kent County Council Highways and Transportation (EiP ref. 3.154). This document states that KCC and TWBC have been working together positively to address queries raised by KCC at Regulation 19 stage, and that there is a clear timetable to jointly work to address any outstanding queries in relation to Highways matters.

2.27 The draft allocations have been made after undertaking appropriate analysis of the sites against the key Tunbridge Wells policy objectives of creating sustainable development locations from a transport perspective and after undertaking several stages of public consultation.

Need for new and improved infrastructure (including community facilities)

2.28 The Council have produced an Infrastructure Delivery Plan (EiP ref. 3.71) which sets out the national and local context in relation to infrastructure, details of engagement with key

stakeholders, an analysis of existing infrastructure provision including capacity, details of infrastructure required to support the demands of the borough to support new development as identified in the Local Plan, and an infrastructure delivery schedule.

- 2.29 This document considers physical infrastructure, including utilities, transport and waste, community infrastructure such as schools and educational facilities, health and social wellbeing, and green infrastructure such as open space.
- 2.30 The document notes that discussions have been undertaken with a variety of key stakeholders including infrastructure providers, parish and town councils, targeted stakeholders in relation to Strategic Sites, and neighbouring Councils. The details of the consultations undertaken are set out in Appendix 3 of the IDP.
- 2.31 In our view, the process of assessing existing infrastructure and future infrastructure needs arising from the Local Plan has been thorough and carried out in consultation with all relevant parties.

Heritage assets and nature conservation

- 2.32 In relation to heritage assets including the historic environment, the preparation of the Local Plan has been informed by several key assessments including the Historic Environment Review (EiP ref. 3.100) and the Historic Landscape Characterisation (EiP ref. 3.101).
- 2.33 A biodiversity evidence base has been prepared. The Biodiversity Evidence Base Update (EiP ref. 3.91) provides a thorough assessment on habitats and species in the borough, impact assessments for SSSIs and species records for allocated sites. A Habitats Regulation Assessment (EiP ref. 3.92a) has been commissioned in order to identify any aspects of the Plan that would cause an adverse effect on the integrity of European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites). A Grassland Assessment Survey was also undertaken to assess the potential for development of draft site allocations in relation to grasslands that may have importance in the context of the AONB.
- 2.34 The Development Constraints Study (EiP ref. 3.32) provides a factual overview of development constraints in the borough which includes environmental capacity, archaeology and heritage, and ecology and biodiversity. It draws together a number of other reports to give a factual overview of constraints. This has informed the development capacity in the borough.
- 2.35 By way of an example, in relation to the site at Turnden Farm, both matters were considered extensively at the recent Inquiry. The Local Plan evidence base was found to be robust in relation to the Turnden site and stood up to detailed analysis by expert witnesses – see extracts of the Appellant’s and TWBC’s Closing Submissions at Appendices 1 and 2. Further site-specific information on both issues will be submitted in response to the questions in relation to AL CRS/3 for Matter 7, Issue 7.

Question 7: Was the site selection process robust? Was an appropriate selection of potential sites assessed, and were appropriate criteria taken into account?

- 2.36 The Council, following a call-for-sites, assessed in detail around 500 sites through the SHELAA process. Full details of the submitted sites, as well as those contained in previous Local Plans (which were not yet implemented) and additional sites identified by officers are set out in the SHELAA1. This report also presents information about each site, its suitability, availability,

¹ CD14.2.8.

achievability, with overall conclusions on their appropriateness for allocation within the Local Plan. In our view this exercise addressed an appropriate and comprehensive selection of potential sites. The conclusions have regard to the findings of the Sustainability Appraisal.

- 2.37 The SHELAA process always sought to give weight to the conservation and enhancement of the AONB, with TWBC seeking to maximise the scope for development outside the AONB. The Council concluded that all reasonable alternatives for locating development outside of the AONB are being pursued. Furthermore, it is evident that development to provide for homes and jobs at sustainable settlements within, or surrounded by, the AONB may well need to be in the AONB.
- 2.38 To conclude, TWBC have produced an extensive evidence base which demonstrates that they have been working for many years to identify all possible, suitable locations for housing growth. The site selection work undertaken is thorough, robust and comprehensive.

Appendix 1 Extract of Appellant's Closing – Turnden Inquiry 2021

Paragraphs 122-139

121. As to the local economy benefits – the second limb of NPPF para 170(a) – these have been set out for you by Mr Slatford⁶³⁰ and are not challenged by NE.⁶³¹ The highlights include that the Development could support c.£15.96 million of indirect GVA per annum in total. This equates to around £29 million direct, indirect and induced GVA in total per annum although it should be noted that not all of this will be retained locally and the net additional expenditure to be generated by the scheme could be in the order of £3.1 million per annum.

122. We turn to para 177(b). There was a lot of discussion of alternatives during the planning session, so it needs taking in detail. We make five introductory points.

123. First, the Court of Appeal in the *Wealden* case⁶³² has laid down the following principles applicable in considering para. 177(b):

- (i) While para. 177(b) of the NPPF, does not refer specifically to alternative sites, in many cases this will involve the consideration of alternative sites;
- (ii) The focus of para. 177(b) is on alternatives “outside the designated area” so outside of the AONB, not other possible locations for development in the AONB, albeit that it does also require consideration of ways of “meeting the need for it in some other way”;
- (iii) The NPPF does not seek to prescribe for the decision-maker how alternative sites are to be considered under para. 177(b) in any particular case. It does not say that this exercise must relate to the whole of a local planning authority’s administrative area, or to an area larger or smaller than that. There is thus a considerable discretion accorded to a decision-maker as regards the extent to which alternatives are considered. So where there is,

⁶³⁰ Mr Slatford PoE (CD23.1.5) para. 4.8v.

⁶³¹ Ms Kent XX by Mr Maurici Day 13 PM 2. Instead an odd point is made in Ms Kent PoE (CD23.5.2) para. 4.22 that it is unclear if all people are moving in from outside the Borough, however unless NE is suggesting that people living in the Borough will go on a spree of buying second homes, also within the Borough, this point is self-evidently meritless.

⁶³² See Mr Slatford PoE (CD23.1.5) at paras. 6.15 and 6.16, and CD20.05, at the time the relevant policy was in para. 116 of the NPPF (2012) but was materially identical for these purposes.

for example, a local need for housing in a particular town the search for alternatives can properly be limited to that town;

- (iv) Where the need in issue is area-wide the extent of the consideration of alternatives is context dependent. So, in the *Wealden* case itself there was both a district-wide need and a need in the town where the development was proposed, namely Crowborough. The District in that case was, as here, very largely AONB and so most of it was equally constrained⁶³³. The Inspector said “[e]ven if the search for alternative sites is taken wider than Crowborough, there is a lack of housing land to meet the full OAN ... The existence of other sites, which collectively still fall short of the full OAN, does not amount to an alternative and there are no plans, through the duty to cooperate or otherwise, for neighbouring districts to provide for the shortfall”. The Court of Appeal explicitly upheld the approach as being a lawful and proper one to take under what is now para. 177(b).
- (v) Mr Slatford rightly refused to accept that para. 177(b) imposed a stringent test, as the Court of Appeal in *Wealden* had made clear that there is considerable flexibility in how alternatives are considered by a decision-maker.

124. Second, applying this to the present case – and focussing for the moment on the Borough wide position. The OAN for this Borough is 12,204 dwellings to 2038 (see above) and it is agreed⁶³⁴ that this is a highly constrained Borough. Approximately 70% of the Borough is AONB⁶³⁵ and 22%⁶³⁶ is Green Belt⁶³⁷ and there are also numerous other constraints including a wide network of biodiversity sites and thousands of heritage assets⁶³⁸. The potential area of search within the Borough is thus very limited to start with. As Mr Hazelgrove explained the only settlement of any size outside the AONB, leaving to one side for a moment

⁶³³ CD19.01, and para. 16 of Mr Slatford’s PoE.

⁶³⁴ All accepted by Ms Kent in XX by Mr Maurici, Day 13 PM 2.

⁶³⁵ See Mr Hazelgrove PoE (CD23.2.1) para. 3.15, and see CD12.8, p. 18.

⁶³⁶ See Hazelgrove RX, Day 16 AM 1.

⁶³⁷ ID02, para.6.

⁶³⁸ See Mr Hazelgrove PoE (CD23.2.1) para. 3.16.

Tunbridge Wells and Southborough, is Paddock Wood. So to meet the need outside of the AONB one would be looking at funnelling everything into Paddock Wood. That would not be an equitable or sensible distribution and in any it is already allocated up to capacity as indeed are Tunbridge Wells itself and Southborough. Moreover, these settlements are themselves surrounded by, and constrained by, AONB.

125. Third, it was sought to be suggested by Mr Byass that the requirement to satisfy para. 177(b) lies entirely with an applicant for permission but that is not, as Mr Hazelgrove pointed out, what is said in the NPPF. There is thus nothing at all to prevent reliance on work undertaken by the local planning authority on alternatives, for example, as here in the context of the emerging Local Plan.

126. Fourth, Mr Slatford's view - and this was supported by Mr Hazelgrove⁶³⁹ - was that the focus on alternatives should be on sites in and around Cranbrook⁶⁴⁰. That is because there is here a very clear need for housing in Cranbrook itself (see above) something which Ms Kent accepted. And, "[t]he whole of Cranbrook town centre and the surrounding area lies within the AONB. While some areas within the parish lie outside the AONB, but these are away to the north and well outside the town centre/LBD"⁶⁴¹. In XX it was accepted by Councillor Warne that TWBC's planning officers had rejected such remote northern locations as being unsustainable in terms of meeting the need in Cranbrook⁶⁴². If the focus is on the need for housing in Cranbrook itself then the search for alternatives has to be for alternatives in and around Cranbrook itself. Providing housing in Hawkhurst or Paddock Wood does not meet the need for housing in Cranbrook⁶⁴³.

⁶³⁹ See Hazelgrove XX by Mr Byass, Day 15 PM 1.

⁶⁴⁰ See Slatford EIC, Day 16 PM.

⁶⁴¹ See Hazelgrove PoE (CD23.2.1) para. 4.12, again accepted by Kent in XX. And see also Hazelgrove PoE (CD23.2.1) para. 4.19 "the town centre of Cranbrook is wholly within and surrounded by the AONB, and therefore any housing proposed in or on the edge of the town would be within the AONB".

⁶⁴² XX by JM (Day 15 AM 2).

⁶⁴³ A point made by Mr Hazelgrove in his EIC (Day 15 AM 2).

127. Fifth, in XX of Mr Slatford by Mr Byass⁶⁴⁴, it was suggested that the Applicant was unduly focussed on the need for housing to 2038, and that because 85% of the allocations in the emerging Local Plan are outside the AONB this shows that as matters stand now there are alternative sites outwith the AONB for development. But that event is flat contrary to the approach taken by the Inspector in the *Wealden* case, and upheld by the Court of Appeal⁶⁴⁵. We are therefore searching not for a single possible alternative site for the Development but for sufficient sites to meet the OAN. The sites in the emerging Local Plan are all needed to meet the OAN, they are thus not alternatives.

128. Against that background we turn to the evidence of the Rule 6 parties on alternatives.

129. NE has led the opposition to the Development, and was the only Rule 6 party to call any professional planning evidence at this inquiry. Yet, it has not sought to undertake any assessment of the availability of alternatives in Cranbrook, the Borough or indeed beyond. It has not as part of its evidence sought to advance any site anywhere as being an alternative. This is a material omission. Thus, in the recent Sonning appeal decision⁶⁴⁶ the Inspector noted⁶⁴⁷ that while the local planning authority in that case (which was opposed to the appeal) “questioned this assessment” it “never really suggested any alternative sites”. The same is true here of NE.

130. NE’s case on para. 177(b) is a very limited one. It is essentially confined to two points. First, it criticises the Applicant’s own assessment of alternatives submitted with the planning application⁶⁴⁸, because it is limited to sites in and around Cranbrook rather than being Borough wide. Second, while it recognises that TWBC has, as part of the evidence base for the emerging Local Plan, undertaken a

⁶⁴⁴ Day 16, PM 1.

⁶⁴⁵ See Mr Slatford RX, Day 16 PM 2 and see also CD19.1 para. 89.

⁶⁴⁶ CD19.10.

⁶⁴⁷ See para. 115.

⁶⁴⁸ CD3.12.

far more comprehensive Borough wide analysis⁶⁴⁹ (see below) it says that this cannot be relied on at this inquiry because it is yet to be tested at examination. These two contentions are both flawed for reasons that will be explained shortly.

131. The case of CPRE on alternatives, advanced through Councillor Warne, has been to suggest that the work done in the course of the preparation of the draft NP means that “alternative sites were available to meet housing need in the Parish”⁶⁵⁰. But it does not much matter whether one looks at the published (though still draft) AECOM assessment of alternatives⁶⁵¹ or the somewhat sketchy details we now have of the further assessment of alternatives later undertaken by NP Steering Group.⁶⁵² In the end Councillor Warne did not put forward any particular site as an alternative, and we know that no sites were allocated in the draft NP.

132. The evidence presented to this inquiry by Mr Hazelgrove⁶⁵³ shows that all of the sites referred to in Councillor Warne’s⁶⁵⁴ evidence have since been considered and rejected in the SHELAA⁶⁵⁵ and/or refused planning permission. Indeed, in respect of many of these sites the Parish Council itself objected to the planning applications made. At the end of the XX of Councillor Warne by Ms Lambert she was able to put CPRE’s case no higher than that amongst all these sites there could possibly still now be some that might still deliver some housing albeit she could not even begin to quantify this. Moreover, she accepted in terms that as matters stood today many of these sites had been ruled out by the SHELAA assessment and/or refusals of planning permission. When it was put to her that what

⁶⁴⁹ Indeed TWBC’s process goes beyond the Borough, see CD14.2.2 p. 52 “The scope for developing outside the AONB has not been restricted to the Borough. Neighbouring authorities have been made aware of the need for major development in the AONB if TWBC is to meet its own housing need in full and were contacted to ask if there is scope for this to be met elsewhere. These are set out in the Duty to Cooperate Statement.”

⁶⁵⁰ See Cllr Warne PoE (CD23.3.3) at para. 5.4, emphasis added.

⁶⁵¹ CD13.2: as it was a draft and never consulted on its weight must be limited: see Mr Hazelgrove RX Day 15, PM 3.

⁶⁵² This later assessment was an exercise which was undertaken by non-professionals, was never published nor ever consulted on. Hence the weight it attracts is minimal.

⁶⁵³ ID52 and ID53, and see the EIC of Mr Hazelgrove.

⁶⁵⁴ Including, of course, on with which she has a family connection.

⁶⁵⁵ CD14.2.8, January 2021.

remained, if anything, in terms of capacity on these sites could not possibly meet the need for housing identified in the draft NP for Cranbrook and Sissinghurst she did not seek to demur from that conclusion. Mr Slatford supported this analysis⁶⁵⁶ noting that many of the sites assessed as “amber” by AECOM here were either already allocated in the emerging Local Plan or had been found unsuitable.

133. Mr Cook has undertaken an analysis of possible alternative sites identified by AECOM.⁶⁵⁷ He concludes overall that none could come forward with less harm to the AONB than the Site in issue.⁶⁵⁸ No other party has offered evidence contradicting this - Ms Farmer simply attempted to re-define the point by suggesting it is clear much of the landscape surrounding Cranbrook is sensitive and development would better be achieved through small sites only.⁶⁵⁹ Mr Cook was not challenged on his analysis by NE, and though Mr Wotton asked him some questions we say this simply reinforced the strength of his analysis.⁶⁶⁰

134. Having dispensed with the position of the other Rule 6 parties, The Applicant says that the position in relation to alternatives, for the purposes of para. 177(b) of the NPPF, is as follows:

135. First, in the course of preparing its emerging Local Plan TWBC has undertaken a comprehensive and extensive process of site selection. TWBC following a call-for-sites assessed in detail around 500 sites through the SHELAA process. Full details of the submitted sites, as well as those contained in previous Local Plans (which were not yet implemented) and additional sites identified by officers are set out in the SHELAA⁶⁶¹. This report also presents information about each site, its suitability, availability, achievability, with overall conclusions on their

⁶⁵⁶ See Mr Slatford EIC, Day 16 AM 2.

⁶⁵⁷ The Site Assessment is at CD13.2

⁶⁵⁸ Mr Cook PoE (CD23.1.7) para. 12.1-12.13.

⁶⁵⁹ Ms Farmer EIC Day 2 AM 1.

⁶⁶⁰ Even then, though, Mr Cook was very fair and frank in suggesting this part of his analysis only be accorded moderate weight: XX by Mr Wotton Day 6 PM 1.

⁶⁶¹ CD14.2.8.

appropriateness for allocation within the Local Plan. The conclusions have regard to the findings of the Sustainability Appraisal⁶⁶². The SHELAA process sought at all times to give weight to the conservation and enhancement of the AONB, with TWBC seeking to maximise the scope for development outside the AONB⁶⁶³. TWBC “concluded that all reasonable alternatives for locating development outside of the AONB are being pursued. Furthermore, it is evident that development to provide for homes and jobs at sustainable settlements within, or surrounded by, the AONB will need to be in the AONB”⁶⁶⁴. Moreover, TWBC has throughout the process sought to reduce the number of allocations in the AONB. These have reduced from 49 to 32 overall⁶⁶⁵, and from 19 major developments down to 11⁶⁶⁶. For all the proposed major developments the HDA LVIA was commissioned (at NE’s request) to look at the landscape effects (see above), and so were other studies such as on grassland⁶⁶⁷. The end result of that process, in the Reg. 19 version of that Plan submitted for examination, is that the Site is among those that have been proposed for allocation in order to meet the OAN of the Borough.

136. Thus, the position is that there is an extensive and publicly available evidence base that TWBC have been working on over many years to identify all possible, suitable locations for housing growth. That work is thorough, robust and comprehensive⁶⁶⁸. An applicant for planning permission could not have hoped to undertake so comprehensive a process. A call for sites process can only really be done by the Local Planning Authority, and the same is true for the whole SHELAA process. As Mr Slatford said it would be odd given the work done had the Applicant sought to itself replicate this work, and there is no reason why it would do so.

⁶⁶² See the summary in Mr Slatford PoE (CD23.1.15) at para. 6.105.

⁶⁶³ See e.g. CD14.2.2, p. 51.

⁶⁶⁴ CD14.2.2 p. 52.

⁶⁶⁵ Ibid para. 6.159.

⁶⁶⁶ Ibid para. 6.160.

⁶⁶⁷ See Slatford PoE (CD23.1.15) paras. 6.108 – 6.109.

⁶⁶⁸ See Slatford PoE (CD23.1.15) para. 6.92.

137. While it is true, as NE point out, that this evidence base is yet to be examined the evidence is available to this inquiry and is highly material. We say that it can properly be relied on. And, moreover, it is notable that the process has been the subject of no sustained criticism by any party at this inquiry. While the weight to be given to the emerging Local Plan itself is affected by the stage it has reached, the same is not true for the evidence base⁶⁶⁹. And this is supported by the Gate Farm appeal decision⁶⁷⁰ where considerable weight was given to the findings of the HDA LVIA which is itself part of the evidence base for the emerging Local Plan. The Inspector described that work “as an independent, professional review” and that it was of “some significance to the appeal” being something that cannot “be unduly discounted”. He said that the context was “an up-to-date, professional assessment of the potential to accommodate major development in Cranbrook and elsewhere and submitted to the Inquiry by the Council as local plan evidence ...”. The same can be said of the SHELAA process, and TWBC’s consideration of sites more generally.

138. Mr Hazelgrove was reticent at times to place undue reliance on this extensive evidence base and for understandable reasons but it is notable that:

- (i) He said in XX by Mr Byass that where a site was dropped between the Reg. 18 and Reg. 19 stages, as many were, one could assume that this was for a good reason and that the site was not thus an alternative;
- (ii) He has relied on the SHELAA to assess the availability of sites⁶⁷¹;
- (iii) His PoE at paras. 4.11 – 4.41 looks extensively at possible alternative sites including those dropped from the Reg. 18 Plan, those considered in the AECOM report in the context of the draft NP and others before concluding that “based on the available evidence ... there is no scope for developing

⁶⁶⁹ See Mr Slatford PoE (CD23.1.5) para. 7.2.

⁶⁷⁰ CD19.8 paras. 92 and 98.

⁶⁷¹ See Mr Hazelgrove PoE (CD23.2.1) para. 4.32.

sustainably located housing for Cranbrook outside the AONB that delivers the same level of benefits as the Turnden scheme”⁶⁷².

139. The Applicant’s assessment of alternatives submitted with the application⁶⁷³ was an additional piece of work on top of the extensive Borough wide (and beyond) assessment undertaken by TWBC in the content of the emerging Local Plan. The Applicant’s assessment is focussed on sites in Cranbrook and discounts a number of possible alternatives based on factors such as access, sustainability and AONB impact⁶⁷⁴. TWBC has not contested that analysis⁶⁷⁵. The only criticisms ventured of this work by the Rule 6 parties was on behalf of NE by Ms Kent. She raised two issues. First, that the exercise was confined to Cranbrook. Second, that it did not look at smaller sites. In relation to the first point Ms Kent accepted that to the extent there is a need for housing in Cranbrook this can only be met in and around Cranbrook. Second, in relation to smaller sites Ms Kent accepted that there were practical issues in delivering housing, and especially, much needed affordable housing on smaller sites⁶⁷⁶. Moreover, there is no evidence that any of these could deliver anything like the same scale of open space, planting, and BNG.

140. We turn to para 177(c). This involves assessing any detrimental effect on the environment, landscape and recreational opportunities and extent to which this can be moderated.⁶⁷⁷ We accept that this sub-paragraph deals only with any negative impacts and mitigation.⁶⁷⁸ Positive effects are taken into account in the general basket as per the *Wealden* approach.

⁶⁷² See Mr Hazelgrove PoE (CD23.2.1) para. 4.43ff.

⁶⁷³ CD3.12.

⁶⁷⁴ Mr Slatford PoE (CD23.1.5) paras. 6.112 and 6.113.

⁶⁷⁵ Ibid.

⁶⁷⁶ See Slatford PoE (CD23.1.5) paras. 6.33 – 6.34 and 6.37, and see Ms Kent XX by Mr Maurici, Day 14 AM 1.

⁶⁷⁷ You will recall Mr Byass repeatedly put to Mr Hazelgrove that if there was a negative effect which could not be moderated, it would follow no exceptional circumstances could be shown. Mr Hazelgrove did not agree that it was an automatic fail – he would have to reappraise the case (RH XX by Mr Byass Day 15 PM 1).

⁶⁷⁸ As accepted by Mr Slatford – XX by Mr Byass Day 16 PM 1.

Appendix 2 Extract of TWBC Closing – Turnden Inquiry 2021

Paragraphs 122-131

121. If a “critical” need does need to be demonstrated (not accepted), there is an urgent need for housing and a critical need for affordable housing in Tunbridge Wells. That need exists nationally also.

Para 177(b) – the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way

122. From *SSCLG v Wealden DC* [2017] EWCA Civ 39¹⁶⁷ [63], there does not have to be a consideration of alternative sites. Furthermore, if there is a consideration, the policy does not prescribe how alternative sites are to be assessed or how wide the search must be. This depends on the circumstances and is a matter of planning judgment.

123. The Development Strategy Topic Paper for the pre-Submission Local Plan¹⁶⁸, paras 6.133 onwards reveal that, following consultation, a “more rigorous appraisal of the larger sites” was warranted and the Council fully considered the AONB constraints. The Council substantially reduced the number of allocations in the AONB from 49 to 32 and reduced the number of dwellings by 47%. The largest single proposal is now for just over 200 dwellings. At para 6.167 it sets out that whilst 69% of the Borough is designated as AONB land, the amount of land allocated for development is 82 hectares which amounts to about a third of 1% of the total AONB area within the Borough. It is submitted that that demonstrates the care and attention that the Council has taken during this extremely difficult exercise of finding land for housing in a heavily constrained borough.

124. When assessing major development allocations, the Council took a precautionary approach and assessed each site against para 177¹⁶⁹. Table 3¹⁷⁰ of the Paper sets out that “*As identified in Section 4 and elaborated upon in the ‘Housing Needs Assessment Topic Paper’, there is a substantial local housing need, which it has been found cannot, sustainably, be met without at least some major development in the AONB, which covers nearly 70% of the borough*”. The assessment of need in the Paper

¹⁶⁷ CD 20.5

¹⁶⁸ CD 14.2.2

¹⁶⁹ Para 6.125

¹⁷⁰ CD 14.2.2 page 51

also notes the “*very high affordability ratio in the borough that is limiting access of local people to housing*” and the “*high need for affordable homes*”. In terms of 177(b), the Paper concludes from the extensive work in the SHELAA and Sustainability Appraisal noting that both processes have “*given great weight to the conservation and enhancement of the AONB*” that “*The scope for developing outside the AONB has been fully realised*”. It notes that for settlements like Cranbrook, even within the built-up area, inevitably development will be in the AONB. It states that whilst the main urban areas of Royal Tunbridge Wells and Southborough and Pembury are outside of the AONB they “*have developed virtually up the AONB; hence, further growth of these very sustainable settlements would also almost certainly be in the AONB*”. Paddock Wood is the only town outside the AONB but this has been identified for major urban expansion for 4000 dwellings in addition to the 1000 in the current Site Allocations Plan and that is regarded “*as its full potential capacity*”. The Paper also advises that the scope for developing outside the AONB has not been restricted to the borough and neighbouring authorities have been contacted. Lastly, all suitable smaller sites in the AONB are already proposed for allocation.

125. The SHELAA is a detailed study, assessing 500 sites, based on a robust methodology, compiled by experienced planning professionals and informed by technical consultees like KCC and Ms Kent made no criticism of the process. If a borough wide assessment of alternatives to Turnden is required as part of this planning application, it has been done and it has been done thoroughly. Indeed, by contacting neighbouring authorities, the decision maker can be satisfied that there have also been attempts to explore sites outside of the Borough.

126. Hypothetically there is an area of land in the Borough which is not designated Green Belt and is not designated AONB¹⁷¹. However, as Ms Kent accepted, in that area of land is agricultural land, farm land, subject to sustainability/accessibility constraints, not available. Just because it is not designated does not mean that it has been put forward by landowners.

¹⁷¹ Para 41 NE Closing submissions refer to RH PoE para 4.19 – this is plainly hypothetical - there is no actual land as demonstrated by the evidence base

127. Realistically, there is nowhere else to go.
128. And the Topic Paper demonstrates that the Council is aware of and has considered all constraints including Green Belt, heritage assets and archeology. It has been a difficult exercise but it has been carefully and properly assessed. The Council takes seriously the subject of development in the AONB – it refused the application for 27 homes at Hartley Gate, it refused the application for 374 homes at Hawkhurst Golf Club, it refused the application for 2 at Land Adjacent Frisco Cottage¹⁷².
129. As for a local alternative site assessment, the proposed sites put forward by CPRE based on a draft 2019 AECOM report (to which no weight can be given), were assessed by Mr Hazelgrove through the documents at ID 52 and 53¹⁷³. His conclusion was that virtually all were not suitable for allocation¹⁷⁴. The SHELAA is more recent than the AECOM report, has been informed by statutory consultees, has considered 500 sites and reflects the assessment of planning professionals (in contrast to the sites Ms Warne puts forward as alternatives). Furthermore, Mr Hazelgrove’s recent assessment has been able to update the inquiry as to planning permissions refused and planning appeals dismissed. The CPRE alternatives can be safely discounted as they fall woefully short¹⁷⁵.
130. Natural England advances no alternatives and, it is submitted that, in accordance with the Sonning Common DL in which the Council “never really suggested any alternative sites¹⁷⁶”, that is a serious shortcoming. It is not good enough to say that that is for the applicant or that is for the Local Plan inquiry. This application has been made and requires determination and Natural England unreasonably suggest that there is an alternative way to meet need in the face of the extensive work undertaken by the Council without putting forward a single example.
131. Para 177(b) is met.

¹⁷² 20/01991/FULL discussed at ID 18

¹⁷³ Numbers not challenged

¹⁷⁴ Save for 21

¹⁷⁵ Para 56 *Wealden* CD 20.5

¹⁷⁶ Para 115 CD 19.10