

SAVE CAPEL

And

CAPEL PARISH COUNCIL

Herein referred to collectively as
(“ SCPC ”)

HEARING STATEMENT

**MATTER 1 – GREEN BELT ASSESSMENT, SUSTAINABILITY APPRAISAL AND
LOCAL PLAN REVIEW**

INTRODUCTION

1. As per paragraph 11 of the “Examination Guidance Note for Stage 3”, Save Capel has been in discussion with Capel Parish Council and we have agreed to submit jointly prepared statements, given the commonality in the points both bodies wish to raise with the Inspector. We hope this will assist the Inspector with the timetable for representations and hearing arrangements.
2. In response to the Inspector’s questions, we have sought to avoid wholesale repetition of previously submitted evidence to the examination. This statement provides a summary of our points and expands on these where relevant to the specific MIQs ahead of the examination hearing scheduled for 18th June 2024.
3. At the time of writing SCPC have not had the benefit of sight of the Council’s responses to the MIQs and will seek to make further representations in the light of these at the hearing, where appropriate.



CAPEL PARISH COUNCIL



SAVECAPEL

ISSUE 1 – GREEN BELT STUDY STAGE 3 ADDENDUM

Q1. Does the Stage 3 Addendum adequately address those concerns raised in the Inspector’s Initial Findings that sites had not been considered on a consistent basis where harm to the Green Belt is concerned?

4. No, it does not adequately address those concerns – SCPC have grave concerns regarding both scope (see Q2) and consistency of the Stage 3 Addendum.
5. At the outset, SCPC wishes to emphasise that whilst it welcomes the Council’s removal of Tudeley Village (“TGV”) from the Plan, the Council has not gone far enough in reconsidering reasonable alternatives to its strategy that is now advanced in its revised Plan (i.e. the Plan without TGV). TGV is self-evidently an unsustainable option. Faced with that reality, the Council could, and should, have fundamentally re-considered its spatial strategy, gone back to the drawing board and re-considered, in light of TGV’s unsustainability, what alternative strategies might now be appropriate to meet its housing need. The Council instead has sought to do the minimum to try to salvage what is left of its original strategy, via (a) not allocating any more sites at all, despite the excision of a strategic site allocation of 2,100 homes (b) only providing for 10 years housing supply, and (c) its proposal for an early review.
6. Paragraph 68 of the applicable NPPF refers to the need for policies to identify “where possible” 11 – 15 years’ worth of supply. It is entirely possible for the Council to do this, by re-visiting its identified growth strategy options, and they have not adequately justified why they haven’t. Furthermore, paragraph 22 of the NPPF states that “...*strategic policies should look ahead over a minimum 15 year period from adoption*”. This Plan does not do that. The strategy of clinging onto its original strategy, albeit one shorn of the TGV allocation, has inevitably meant that the further Green Belt assessment the Council has carried out in the Stage 3 Addendum has been artificially limited in scope, and has not considered other alternatives which were initially rejected.
7. The Council claims to be using a different, more granular method for Green Belt (“GB”) assessment and grading. This unfortunately obfuscates rather than clarifies, since the outcomes of GB Stage 2 and Stage 3b cannot be compared ‘like for like’. It makes it highly confusing understanding what exactly has changed between the two stages of assessment.
8. The Stage 3 Addendum (“3b”) does however confirm that the previous Green Belt harm assessment at Stage 2 was overly conservative: For 49 sites (nearly 60% of all sites assessed),

the harm rating has now been downgraded versus the initial harm rating at Reg 18/19, i.e. development would cause less harm to the Green Belt than initially acknowledged.

9. It is of great concern that many sites not included in the original Reg 19 draft Plan have now had their value regarding GB downgraded. .
10. The GB Study 3 Addendum now identifies a large number of sites with a harm rating equal or lower than that for TGV or East Capel (“EC”) where harm was assessed as high:
 - 35 sites with a potential for 2,162 dwellings with a harm rating of ‘moderate’ or less
 - 56 sites with a potential for 4,157 dwellings with a harm rating of ‘moderate-high’ or less
11. If it is the case that the harm caused to the GB by those sites being developed is now materially less, then that is again a reason why the Council ought to have carried out a more fundamental review of its spatial strategy and, for instances, allocated more sites than in the original SLP. It is extremely odd that the Council has not allocated any more sites at all.
12. Both the downgrading of harm scores for the vast majority of sites, as well as the identification of a large number and significant development potential of unallocated sites less harmful in GB terms than TGV and EC, confirm the inconsistency and at times superficiality of the Council’s assessment evident and highlighted by SCPC during Reg 18/19. All of this suggests a more fundamental review of the spatial strategy advanced by the Council should have been carried out.
13. In short, accepting that this Question deals with the harm of green belt sites, the Stage 3 addendum results should have prompted a robust review of this potential for housing delivery
14. Finally, SCPC notes that other GB sites reviewed in the Stage 3 Addendum, particularly around the existing urban areas of Royal Tunbridge Wells (“RTW”) and Southborough, which might appear to offer reasonable alternatives given their proximity to infrastructure and facilities, have been surprisingly up-graded in terms of harm, without it being entirely clear why. Additionally, a site in Five Oak Green “(FOG”) (RA/FG4), directly abutting the edge of the proposed Tudeley Garden Village (“TGV”) development has a higher harm rating than other sites in the same vicinity. Internal inconsistency therefore exists across the Stage 3 Addendum.

15. As set out above, this deliberately scope-limited and inconsistent work, focussed on an early review, leads SCPC to believe the Council may well harbour an intention to bring back TGV as soon as possible, despite it being wholly unsustainable. This is explained under Matter 3.

Q2. What is the list of reasonable alternative site options in Table 2.1 based on and have an appropriate range of options been tested?

16. An appropriate range of options has not been tested. SCPC considers that the scope of the review is far too narrow. The Table 2.1 only includes 71 of the sites that the Council considered between Reg 18 and Reg 19, but excluded others that were also in AONB and in their opinion were not ‘reasonable’ alternatives. The Council has not re-assessed all omission sites located in the GB in this review. Castle Hill, for instance, has not been included.

17. It appears that the Council viewed this study as a “tick box exercise” and an attempt to do the absolute minimum, when they should have used this opportunity to fully consider the potential for replacing the shortfall resulting from their decision to remove TGV. This self-imposed narrow focus means that inevitably the Council missed the vast majority of alternative sites available.

18. SCPC’s key concern is that the Council has not re-assessed any ‘reasonable alternatives’ located in either land designated as AONB or outside any designation. We explain this further under the Questions below.

Q3. How did the Council use the information from the Stage 3 Addendum to determine whether or not exceptional circumstances exist to alter the Green Belt boundary as proposed by the submission version Local Plan?

19. It is far from clear how the Council did use this information. The Stage 3 Addendum specifically states its function was not to inform the alteration of the GB boundary nor determine whether or not Exceptional Circumstances exist (para 1.12).

20. SCPC are unable to find any new evidence that attempts to justify ‘exceptional circumstances’ for the allocations in the Plan, and it is a failing that there is still no topic paper that explains the justification, mitigation proposed, and any compensatory measures in light of the new Stage 3 Addendum.

21. The revised Plan actually weakens the justification for the current allocations’ removal from the GB. The necessary ‘exceptional circumstances’ in particular are not substantiated at the

- Capel sites, and the Stage 3 Addendum does nothing by way of further justification for their removal from the GB¹.
22. As mentioned above, we consider that that the Council has misread what the Inspector required and has undertaken a far too narrow exercise. The Inspector required² “...a thorough assessment process which includes an understanding of the likely impacts when compared with other site options” and stated³ that “further work is necessary before a conclusion can be reached that exceptional circumstances exist to release the relevant site allocations from the Green Belt”.
23. SCPC considers that “other site options” should include all options, including a thorough re-assessment of omission sites, those in AONB, and an up-to-date review of brownfield sites.
24. The Inspector has stated⁴ that “...national planning policy is clear that the Government attaches great importance to Green Belts and that boundaries should only be amended in exceptional circumstances. Reaching that conclusion should be based on a thorough assessment process which includes an understanding of the likely impacts when compared with other site options, especially where the magnitude of harm from the two largest allocations is “high””.
25. SCPC set out previously why we believe the original SHELAA and Sustainability Appraisal were deeply flawed. SCPC believes that the required “thorough assessment process” is not evidenced, particularly that there is no evidence that the Council re-assessed its decision to select the Growth Strategy and decided whether, in light of the Inspector’s findings, its Growth Strategy needed to be revisited.
26. Without such an up-to-date assessment, including the potential urban opportunities from changes in legislation that promote the change of use of urban sites to residential and a proper assessment of the significant opportunity from the vacant commercial space (offices, shops, etc.) which has arisen during and since the Covid-19 pandemic, the threshold for GB release is not met.
27. Save Capel has repeatedly highlighted and promoted a range of alternative sites in response to Reg18 and Reg19 consultations that the Council has chosen to ignore – again.

¹ PIFC_152 SaveCapel response (para 2.55 to 2.61)

² ID_012 Inspector’s Initial Findings [para 7]

³ ID_012 Inspector’s Initial Findings [para 8]

⁴ ID_012 Inspector’s Initial Findings [para 7]

Q4. The Stage 3 Addendum found that some sites (around Five Oak Green) would only cause Low or Low-Moderate harm to the Green Belt. Given that the Plan seeks to meet housing needs in full, but will only provide for around 10 years' worth of housing land supply, why have these sites not been considered for allocation as part of the examination of this Plan?

28. As stated above, the new ratings of 'Low' to 'Low-Moderate' appear to be the result of a less than rigorous methodology.
29. SCPC share the Inspector's lack of clarity as to why the Council have not considered these sites. It may be because the Council does not wish to conduct the proper comprehensive review we are calling for, i.e. it is a symptom of the failure to carry out a root and branch review of its spatial strategy that we have referred to above. For the avoidance of doubt, with the particular example of FOG, allocating large swathes of GB surrounding FOG is not justifiable: this small settlement with no infrastructure to speak of, mainly in Flood Zone 3, one shop, no pub, without even a bus to the hospital and RTW is completely unsustainable. But the very fact that the Council has dismissed them out of hand without any reasoning provided strongly indicates a reluctance on the Council's part to carry out a meaningful review of its spatial strategy.
30. The largest site (2B – allocation Site 11) would require major works to the footpath and railway bridge to enable effective communication between the new dwellings and the centre of FOG, and to mitigate the effect of traffic on Whetsted Road which is notorious for traffic speeding on a 'rat run' between FOG and the A228. Proposed site 3B, given its proximity to a flood zone, back land setting and irregular shape, could only make the most limited contribution to housing supply.
31. Given development on these sites could represent a substantial proportionate increase in dwellings within FOG, serious thought would need to be given on the impact of these dwellings on the infrastructure of the village and the needs of local residents for affordable housing.
32. Whilst allocations at FOG are not therefore justifiable, nonetheless SCPC considers that this very valid Question by the Inspector can and should equally apply to include all GB sites that have a harm rating less than the 'high' rating of the strategic sites at TGV and EC. As set out under Q1, the potential for allocating sites which would provide up to over 4,000 dwellings should be re-assessed.

33. SCPC submits that the allocation of these particular FOG sites should only be considered as part of the wider review of spatial options that the Council could, and should, have undertaken.

Q5. Where relevant, have the findings in the Stage 3 Addendum been used to update the Strategic Housing and Economic Land Availability Assessment?

34. Updates to the SHELAA based on the findings of the Stage 3 Addendum are negligible.

35. This is primarily due to the extremely narrow scope of the Stage 3 Addendum which neglected to investigate the vast majority of reasonable alternative sites (see also Q2)

36. But even for the limited set of 71 unallocated GB sites that the Stage 3 Addendum restricted itself to, changes to the SHELAA are marginal at best - mostly minor changes to language concerning GB harm.

37. The only exception are the sites around FOG (see Q4) with 'Low' or 'Moderate' harm ratings that are judged to be comparable (in harm rating) to allocated sites and hence regarded as an option for future allocation.

38. However, for 19 sites included in the GB Study as reasonable alternatives, no updated SHELAA's seem to have been produced. SCPC does not understand why this has not been carried out.

ISSUE 2 – SUSTAINABILITY APPRAISAL ADDENDUM

Q1. Has the Sustainability Appraisal Addendum adequately considered the suggested spatial strategy (i.e. a Plan without Tudeley Village and reduced development in East Capel) against reasonable alternative spatial options?

39. Absolutely not. In its updated SA⁵, the Council finds that its earlier findings were accurate, and the Plan does not need updating. For the same reasons set out above in relation to a failure to assess reasonable alternatives to justify GB release, the updated SA should have been enhanced to contain a re-assessment of the main strategic options in light of the Inspector's findings.

40. The only new information considered for the SA is the GB Study 3b which – as described above – is extremely narrow in scope and ignores reasonable alternatives.

⁵ Examination documents PS_037 and PS_038

41. In the SA, the Council exclusively focuses on the limited number of sites contained in the GB Study 3b and updated its appraisal only for sites where the harm rating had changed by 2 or more rating steps. As a result, the 'land use' score for 21 out of 56 sites improved.
42. As 'land use' is only 1 out of 19 criteria used in the SA for each site, unsurprisingly the Council concluded that none of the sites provided a reasonable alternative and no change to the Local Plan was required.
43. Therefore, the SA Addendum has demonstrably failed to adequately consider alternative spatial options. It is clear that rather than approach the question of other site options with an open mind, the exercise carried out by the Council has been a very limited exercise. In particular, it has not revisited reasonable alternatives to its strategic site options nor revisited its conclusions set out in the Development Strategy Topic Paper October 2021 which led to it deciding to exclude development in the AONB.
44. In its response to the consultation⁶ the Council says *“Whilst there are also options of reassessing previously less sustainable options in order to provide the full 15-years housing land supply, different distribution options have already been appraised through the Sustainability Appraisal. Therefore, rather than reappraise them, the further option at this stage would be to suspend the examination to carry out this re-evaluation. Hence, this option presented in the SA is very similar to the previous “no plan” option”*.
45. The Council has spent more than a year purportedly considering the options yet in reality has done the minimum it considers necessary in order to try and comply with the Inspector's findings without considering whether a wholesale new strategic approach was necessary, given that its earlier, preferred, strategic option (premised on a 2 garden village strategy) was not tenable. The consequence of the revised strategy is that far more work was required to ensure a sound plan rather than merely updating the GB Study Stage 3.
46. That is why SCPC recommended in its response to the recent consultation that a pause be taken whilst the Council undertakes a comprehensive review of reasonable alternatives that are already available. This would have avoided the potentially wasted time and costs of further examining this version.

⁶ PS_077a Policy STR1 - The Development Strategy comment summary and response table (Rep 95-2)

47. SCPC disagrees that this equates to a “no plan” option, given that there are over 300 omitted sites which would likely still be available without the need for a further ‘call for sites’ and the Council has already identified alternative strategies that would provide the land supply (see Q2 below). There is also a series of garden settlement options that should be re-considered (see our response to Matter 3).

Q2. If the Plan does not provide sites sufficient to meet the housing requirement, have the implications been considered against reasonable alternative options that would meet housing needs?

48. Given its entirely correct decision to remove one of the strategic sites (TGV), the Council could, and should, have revisited its spatial strategy which was premised on major development at two strategic sites and re-considered its strategic approach wholesale and looked at other reasonable alternatives including AONB sites. All it has done is to provide an addendum to its Stage 3 Green Belt (“GB”) Study. There is no evidence that with the proposed changes, the overall spatial strategy remains justified.

49. The SA⁷ for the submitted local plan included several alternative strategies that would meet the full identified housing needs, all without TGV being included:

- Growth Strategy (4) Main Towns
- Growth Strategy (5) Main Towns & Large Villages, no GB development in Capel
- Growth Strategy (6) Meet need with no Green Belt (MGB) loss, also with no GB development in Capel
- Growth Strategy (7) Proportional to Services, no strategic sites
- Growth Strategy (8) Services and AONB, no strategic sites

50. SCPC does not set out the merits of these options here, but considers that the Council could, and should, have reviewed them in light of the Inspector’s findings. It is highly unsatisfactory that they wish to kick the can down the road. The SA Addendum⁸ has not revisited these options.

⁷ CD_3.130a - 2021 SA of the Submission Local Plan (Table 12)

⁸ Examination Document PS_037

Q3. Have the suggested Main Modifications been subject to Sustainability Appraisal?

51. Unfortunately, this was a tick box exercise with no new analysis or insight, that merely reiterated the same objectively wrong and discredited assessment scores from previous Plan versions, now applied to a few, slightly tweaked zonal permutations of the strategic sites.
52. The Council claims that there is no or only limited cumulative change to the SAs for the various TGV and EC options:
- a. No real new work was conducted to assess TGV and EC. Instead, the Council considered various permutations that excluded / included sub-parcels of the original sites.
 - b. Assessment scores for the various sub-options differed marginally across different dimensions.
53. So unsurprisingly – given there was not really any new information – the Council’s findings reconfirmed the outcomes from Reg 19 and TGV / EC were assessed as sustainable.
54. The updated SA is based directly on the GB Study 3b and suffers from the same shortcomings. SCPC finds the new SA to be inadequate and not fit for purpose:
- a. The scope of new information and the sites considered are extremely limited
 - b. SA for TGV / EC are merely tweaking previous assessments
55. As per our previous submissions to the examination, SCPC fundamentally disagrees with the SA outcomes for TGV/EC which are deeply flawed and unreasonable based on the Council’s own criteria and any objective assessment.

ISSUE 3 – PROPOSED STRATEGY AND EARLY REVIEW

Q1. What is the justification for suggesting Main Modifications to the Plan, and subsequently requiring an immediate Review, rather than seeking to meet housing needs as part of this examination?

56. In SCPC’s view, this question turns on the lack of sustainability of Tudeley Village and the Council’s response to the realisation of that. As explained above, SCPC considers that there are already available spatial options that potentially could meet the full housing need (without the loss of GB in Capel) which the Council has failed to use the time productively to evaluate.
57. The Council states⁹ *“The proposed early review of the Local Plan will allow the Council to investigate ways of meeting the identified housing needs for the period after 2034...”*. They also refer to the Inspector’s findings saying¹⁰ that *“...a way forward could be that needs could be catered for over a shorter timeframe without the need for any specific additional sites to be identified at this stage”*.
58. The Council’s response completely fails to consider the extra shortfall in the revised strategy that arises from restricting housing development to flood zone 1. Clearly, when the Inspector identified that potential way forward he expected¹¹ *“...it would result in around 610 fewer homes”*. In fact, the reduction is over 1,000 dwellings which is a further reason why the Council should have already comprehensively re-assessed other options that could meet the Plan’s need.
59. Furthermore, SCPC has serious concerns that the proposed housing trajectory is undeliverable over the first 10 years in any event. This raises the question as to whether the proposed strategy is justified. These are covered under Matters 4 and 8.
60. There is still the opportunity to carry out the review recommended by SCPC and others (that the Council is expecting to defer) and identify “sustainable” broad locations that either meets the need in full or provides clarification of what the early review includes.
61. As explained under Matter 3, SCPC does not accept that there is any justification that this review should include TGV. The Council has had the opportunity to justify its inclusion and has failed to do so. It is self-evidently not a reasonable alternative.

⁹ PS_077a Policy STR1-The Development Strategy comment summary and response table (Rep 91-1)

¹⁰ PS_077a Policy STR1-The Development Strategy comment summary and response table (Rep 95-1)

¹¹ ID_012 Inspector’s Initial Findings [para 48]

Q2. How would the Council's intended early review of the Plan be controlled? What would be the implications (if any) if an update to the Plan was either significantly delayed or not prepared at all?

62. Whilst SCPC does not have confidence in the Council, given the track record of this local plan, provided the groundwork referred to above is done now then clarity can be given as to how the early review (if it is necessary) can be achieved.
63. Given the statutory requirement that local plans must be reviewed every 5 years, the Council would be obliged to provide an updated plan in any case.

Q3. The Development Strategy Topic Paper Addendum states that "...other distribution options that may provide the full 15 years' housing land supply were assessed as part of the formulation of the Pre-Submission Local Plan through rigorous consideration. However, there was not an obvious alternative strategy to the one proposed at the SLP stage." What is the justification, therefore, of seeking an early review to the Plan if options without Tudeley Village have already been considered and discounted??

64. There is no justification for an early or immediate review, even if the Council is able to demonstrate that all other reasonable alternatives to its current strategy have been adequately assessed. An early or immediate review would only be justifiable if the Council could identify now a possible change in circumstance (such as funding coming forward for infrastructure) which would justify an early review. It has not done so.
65. As set out above and in earlier submissions, SCPC does not consider that rigorous consideration of other distribution options has been given and for the reasons in this statement there are clear alternatives available.
66. Furthermore, there are further opportunities for meeting housing supply since the Plan was prepared, much of the work being now years old, including:
- repurposing the vacant commercial space (offices, shops, etc.) which has arisen during and since the Covid-19 pandemic.
 - a re-assessment of the potential urban opportunities from changes in legislation that promote the change of use of urban sites to residential
 - potential from the emerging RTW town centre plan, which currently has a modest allocation of up to 200 dwellings in the SLP

67. In summary, whilst we consider the Plan is currently unsound, we do not recommend withdrawal of the Plan at this stage for the following reasons:

- a. there are many good policies in the wider plan which, subject to main modifications, have already been examined;
- b. the non-strategic allocations that have already been examined can proceed towards delivery;
- c. the current plan only includes 30 allocations out of over 400 sites submitted, thus the potential must be there without the need for a further ‘call for sites’ at this stage;

68. Whilst the above would mean some delay, a withdrawal of the plan would take far longer to establish an up-to-date development plan.

JOINT HEARING STATEMENT

MATTER 1

31ST MAY 2024



CAPEL PARISH COUNCIL



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