

## Examination of the Tunbridge Wells Borough Local Plan Inspector's Matters, Issues and Questions for Stage 1

### 1.0 Introduction

- 1.1 This Hearing Statement has been submitted by Rydon Homes Limited and relates to Matter 1. Rydon Homes Limited have requested to participate in the Examination. Kevin Willcox and Kate Outterside will attend for that purpose.
- 1.2 Rydon Homes are a local housebuilder with offices at Forest Row, East Sussex, and have been building housing, at the quality end of the market, in Tunbridge Wells and adjoining areas for over 35 years. We are therefore a stakeholder in the Plan and have an interest in its content. We have participated in the earlier stages of the Local Plan process and have specific site interests in Five Oak Green, Sissinghurst and Hawkhurst. Whilst we are aware that the Inspector has indicated that he will not be considering the merits or otherwise of omissions sites as part of the Examination. However, consistent with their previous representations, Rydon Homes Limited consider that the emerging Local Plan is unsound.
- 1.3 For the sake of brevity and minimising repetition, this Statement should be read alongside previous representations on issues raised.

### 2.0 Response to Mater 1 – Legal Compliance

#### Issue 1 – Duty to Cooperate

*Question 1: The Duty to Cooperate Statement – Part 1 (Revised November 2021) states that the Council has identified sufficient sites to meet its local housing need in full. Whilst this involves the removal of land from the Green Belt and some major development in the High Weald AONB, paragraph 4.14 states that neighbouring authorities were approached to help in meeting housing needs but were unable to assist.*

*What did this process entail and how did the Council explore the possibility of meeting housing needs in areas outside the Green Belt and High Weald AONB? Can the Council point to evidence of effective and on-going joint working with neighbouring authorities beyond Green Belt and AONB boundaries?*

- 2.1 It is not considered that TWBC require assistance from neighbouring authorities in meeting their local housing need unless areas within the Green Belt or AONB are excluded from consideration entirely. This is not a reasonable or practical proposition. Adequate and suitable sites for housing can be found in the Borough on land that is not essential to Green Belt purposes or can be satisfactorily assimilated without significant harm to the integrity of the AONB. These opportunities are capable of meeting TWBC housing need in full and there is also spare capacity to assist neighbouring authorities in meeting some of their un-met housing needs.
- 2.2 TWBC maintain they can at least accommodate their own local housing needs and therefore correctly have made no requests of neighbouring authorities.

*Question 3: Paragraph 27 of the National Planning Policy Framework (‘the Framework’) states that in order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. Has a signed statement of common ground been prepared with Sevenoaks District Council, as required by the Framework?*

2.3 The Statement of Common Ground (SoCG) between TWBC and SDC in 2019 indicates that TWBC is currently unable to meet SDC’s unmet housing need but will review the situation post adoption of both plans. This:-

- is incorrect in that there is potential for TWBC to assist by meeting some or all of the un-met housing need in SDC – as recognised by TWBC in their letter to SDC of 6th October 2021 (SDC 24).
- does not demonstrate effective joint-working because it simply transfers the problem to future plans.
- does not provide evidence that either Authority has worked positively or engaged constructively and actively in seeking to address the matter.

2.4 At the date of submission of the TWBC Local Plan in October 2021 no more recent SoCG had been completed and therefore no such document, being Post Submission, should be admissible. The basis upon which any such SoCG could be drawn up would appear, based on the TWBC letter of 6th October 2021 (SDC 24) and the SDC reply of 22nd October 2021 (SDC 28), to be highly contingent, based on no substantive evidence and inadequate to demonstrate effective joint working.

*Question 4: In the absence of a statement of common ground with Sevenoaks District Council, what evidence can the Council point to in order to demonstrate effective and on-going joint working on strategic cross-boundary matters?*

2.5 There is extensive evidence of communication between the two authorities but nothing productive. Appendix B1 to the DTC Statement shows that the issue has been aired but not reconciled. The potential of un-met housing need was identified by SDC in June 2017 and has not been withdrawn. TWBC have stubbornly maintained the assertion that they are unable to assist in meeting any of the SDC’s un-met housing need and SDC have persistently maintained a request for assistance. The only movement appears to be the SoCG of 2019 which agreed to defer the problem and the recent offer by TWBC to defer the problem to see if any of their alleged “overprovision” in meeting their own local needs might be allocated to SDC in the future. The relationship has been attritional and no meaningful engagement or joint approaches have been secured.

*Question 5: The Duty to Cooperate Statement – Part 1 (Revised November 2021) confirms that Sevenoaks District Council informed Tunbridge Wells Borough Council that it was unable to meet its own housing needs in April 2019. What steps has the Council taken since April 2019 in response to this request? Has the Council engaged constructively, actively and on an on-going basis insofar as the preparation of the Tunbridge Wells Borough Local Plan is concerned?*

- 2.6 TWBC have not taken any meaningful steps to address this issue in their Local Plan. They have been aware of it since June 2017 when SDC responded to the TWBC Local Plan Issues and Options Consultation. However, the objectives of successive versions of the Plan have been limited to delivering the housing needs identified for the Borough with no mention of any wider objective of assisting neighbouring authorities with their un-met housing needs. This parochial and introspective approach runs contrary to the spirit and expectation of the Duty to Co-operate and is reflected in TWBC's robust rejection of the SDC request for assistance. The testing of Growth Strategy 7, in the Reg 18 Sustainability Appraisal, which includes an additional 1900 dwellings for Sevenoaks, is unconvincing – not least because it is based on the assumption that all the additional 1900 dwellings would have to be located within the AONB and no lower figures than 1900 dwellings were considered. The Reg 18 SA assessment of GS7 is not significantly different from that of the Draft Local Plan Spatial Strategy distribution – the key variations being due to assumed additional AONB constraints, some of which are manifested unfairly in assumed additional Air Quality, Biodiversity, Deprivation and Heritage impacts as well as Landscape.
- 2.7 There is no clear-cut sustainability reason for rejecting this growth option. Growth Strategy 11 of the Submission Plan Sustainability Appraisal, which claims to test a housing provision figure increased by 2016 dwellings of un-met need, is not fully attributed to any specific neighbouring authority. This makes the process very vague and TWBC will need to convince the Examining Inspector that their testing is a genuine and scholarly exercise rather than simply going through the motions.

*Question 6: Planning Practice Guidance advises that local planning authorities are not obliged to accept needs from other areas where it can be demonstrated that it would have an adverse impact when assessed against policies in the Framework.<sup>2</sup> How has the Council considered the likely possible impacts of accommodating unmet housing needs from elsewhere as part of the Plan's preparation? What does this show and how have the results been shared and/or discussed with duty to cooperate partners?*

- 2.8 TWBC have assumed that there will be unacceptable adverse impacts arising from any increase in housing provision to assist neighbouring authorities in meeting their un-met housing needs. This appears to be a baseline assumption which underlies their whole approach to the Plan strategy and is illustrated by their decision not to include this as one of the objectives of their plan. From the outset of the Issues and Options Consultation in 2017 TWBC set their face against the idea of helping neighbouring authorities in meeting their housing need. It is referred to as a "requirement" in Paragraph 5.2 of the Issues and Options Consultation document and the relevant question is prefaced by the suggestion that the Council may face significant challenges in seeking even to provide for the borough's relevant level of development need. This circumspect view is entrenched in the subsequent Local Plan process, discussions with other authorities and results in the lack of any such additional provision in the Submission Plan. The position appears to be perceptual rather than real because the SHELAA, following the Call for Sites exercise, does not reveal an overt shortage of suitable and deliverable potential housing sites. Testing of the alternative strategy of assisting neighbouring authorities with their un-met need is limited to the SA and GS7 of the Reg 18 Draft Local Plan SA, which includes an additional 1900 dwellings for Sevenoaks, and Growth Strategy 11 of the Submission local Plan which includes an additional 2016 dwellings – not fully unattributed. No smaller or larger figures are tested as alternatives and the SA in each case is not markedly different from the selected strategy. Neither is a properly balanced assessment because of the assumption that all additional housing sites will lie in the

AONB and give rise to a range of harmful impacts as a result. Minimising the impact of new development on the AONB is an important Local Plan objective but there are alternatives and also sites where development can occur, and/or be suitably mitigated to ensure that there is no significant harm to the integrity of the AONB. This is in the context that housing need can constitute the exceptional circumstances necessary to justify the grant of consent for major housing in the AONB (Framework Paragraph 177) and non-major development does not attract a presumption of refusal. The Council's fundamental approach was therefore flawed because suitable sites could be identified, the testing process was perfunctory, imbalanced and not convincing and there was no positive engagement with or no encouragement of the idea of assisting in meeting unmet needs of neighbouring authorities. Other than through formal consultation at the relevant Local Plan stage there does not appear to be any evidence of engagement, joint planning or positive discussion with duty to co-operate partners because of TWBCs entrenched view that they were unable to assist.

*Question 7: Has the Council been approached by other strategic policy-making authorities to accommodate any unmet needs in the Tunbridge Wells Borough Local Plan? What were the outcomes of these discussions?*

- 2.9 It is believed that all neighbouring authorities have either entered into a complicit understanding with TWBC to the effect that each authority will be responsible for meeting its own local needs. However, in the case of Tonbridge and Malling, Wealden and Rother, there is some doubt about their capability to meet their own needs and in all cases there is uncertainty because future planning strategy has yet to be settled in those Districts. In terms of process there is insufficient evidence of joint working being effective in producing a clear soundly-based position or joint working agreement and, reading the details of the various meetings and positions reached, the overriding impression is that the process of complying with the duty to co-operate has been limited, inadequate and inconclusive.

*Question 8. Does the Plan seek to meet any unmet housing needs from elsewhere? If not, what are the reasons for this and is it justified?*

- 2.10 The Plan does not seek to meet any unmet housing needs from elsewhere. The reasons are understood to be that, with the exception of Sevenoaks, no neighbouring authority has requested assistance with their unmet housing needs and even if they did, TWBC do not consider that they are in a position to assist. This is a disappointing and perfunctory application of the Duty to Co-operate process which falls short of the positive approach required by Government and is not justified by any compelling evidence base.

*Question 9: The submitted Local Plan proposes two strategic developments (at Tudeley Village and Paddock Wood, including land at east Capel) which are situated reasonably close to the boundary with Tonbridge & Malling Borough. The Statement of Common Ground with Tonbridge & Malling Borough Council<sup>3</sup> includes details of a 'Strategic Sites Working Group' which meets monthly and includes examples of some policy outcomes as a result of this joint working.*

*The Statement of Common Ground also clarifies that Tonbridge & Malling Borough Council has raised 'serious concerns' relating to the transport evidence base, transport impacts, flooding and infrastructure provision. In response, paragraph 5.12 concludes that both authorities will continue working to address these concerns, including where necessary with key infrastructure providers and statutory consultees.*

*How have these strategic cross-boundary matters been considered throughout the plan-making process and has the Council engaged constructively, actively and on an on-going basis in addressing them?*

*In answering this question, has the Council's approach been consistent with advice contained in the Planning Practice Guidance? It states that Inspectors will expect to see that strategic policy making authorities have addressed key strategic matters through effective joint working, and not deferred them to subsequent plan updates or are not relying on the Inspector to direct them. If agreements cannot be reached, Planning Practice Guidance advises that plans may still be submitted for examination, but, states that comprehensive and robust evidence of the efforts made to cooperate, and any outcomes achieved, will be required.*

- 2.11 This question is mainly for TWBC and TMBC to answer. However, it is considered that the close relationship between the proposed new Garden Settlement at Tudely and the town of Tonbridge has not been thoroughly examined or planned. This is a classic opportunity for the preparation of a Joint Planning approach to the relevant parts of each District. The disagreement between the two authorities as to the acceptability of the impacts from this part of the TWBC Local Plan strategy and the absence of any form of joint planning approach are serious flaws in the soundness of the Plan. The lack of any constructive outcome from the comparatively limited engagement between the two authorities confirms that the Duty to Co-operate has not been properly and fully exercised.

*Question 11: How does the preparation of additional highways evidence and further dialogue with the County Council demonstrate compliance with the duty to cooperate, which relates to the preparation of the Plan and thus cannot be rectified post-submission?*

- 2.12 There are concerns that TWBC are viewing the Local Plan process as being iterative at all times rather than respecting the legal framework of the Local Plan process. The Plan is to be Examined as being sound on the basis of the evidence available at the date of submission. If influential and important additions to the evidence base were required but not available, then the Submission of the Plan to the Secretary of State should have been delayed ensuring that the Plan, as submitted, is soundly based on evidence.

*Question 12: Has the Council engaged with all relevant local planning authorities, county councils and other prescribed bodies in the preparation of the Plan?*

- 2.13 Yes, but not in a manner and to the extent necessary to satisfy the Duty to Co-operate.

*Question 13: Has the Duty to Cooperate under sections 22(5)(c) and 33A of the 2004 Act and Regulation 4 of the 2012 Regulations been complied with, having regard to advice contained in the National Planning Policy Framework (the 'Framework') and the National Planning Practice Guidance (the 'PPG')?*

- 2.14 No. For the reasons set out above and in consultation responses to the Pre-Submission Regulation 19 Consultation, the Council have been unable to demonstrate that they have fully and properly complied with their Legal Duty to Co-operate or that they have closely followed Government Guidance. This is mainly in relation to their unjustified resistance to assisting in meeting the identified un-met housing needs of neighbouring authorities and failing to properly engage in the process of identifying

such un-met needs to secure an outcome of certainty. Furthermore, there is insufficient flexibility built into the Plan to address situations of unavoidable uncertainty. The failure to engage with and secure a joint planning approach with TMBC in relation to the Tudeley Garden Village proposal is an unsatisfactory outcome which seriously undermines the soundness of that part of the Spatial Strategy and runs contrary to the principles underlying the Duty to Co-operate. In particular, TWBC have failed to properly embrace and execute the Government policy guidance at Paragraph 26 of the Framework 2021.

- 2.15 In summary, there is a request from Sevenoaks for assistance with 1900 dwellings, Wealden and Rother may need assistance, Tonbridge and Malling have difficulty meeting their own needs and object to the TWBC Spatial Strategy, Maidstone and Ashford are confident in meeting current identified needs but reserve their position for the future. None of the adjoining authorities are in a position to accommodate any un-met needs from Tunbridge Wells Borough Council. Therefore, despite many meetings since 2015, there is no settled position, no joint planning, no offer to accommodate TWBCs un-met needs and a number of adjoining authorities either do require assistance in meeting their housing needs or may do so in the foreseeable future. Furthermore, it is clear from the SA and the Housing Topic Paper that TWBC have not looked in any level of detail into the implications of increasing their housing provision above the capped figure or to take account of un-met housing need in neighbouring authority areas. There is therefore little evidence to justify their position. This suggests that whilst there has been administrative engagement, there is no evidence that this has been constructive, pro-active or effective. The legal requirements go beyond simple engagement and the Council have failed to discharge the Duty to Co-operate in this respect.
- 2.16 This repeats the situation in the other two Authorities that comprise the WKHMA, Sevenoaks and Tonbridge and Malling, where similar isolationist approaches have been rejected at Examination by their respective Inspectors (Report on the Examination of Sevenoaks District local plan 2nd March 2020 – Karen Baker and letter to Tonbridge and Malling Borough Council, 2nd March 2021, from Inspectors Louise Crosby and Luke Fleming appointed to conduct an Examination of the Tonbridge and Malling Local Plan).
- 2.17 In concluding that SDC had not complied with the DtC in Section 33A of the 2004 Act, Karen Baker found that the process did not demonstrate that there had been active, constructive or on-going engagement in respect of un-met housing need. Despite the Secretary of State stressing to Inspectors the importance of being pragmatic in getting plans in place, Ms Baker advised SDC to withdraw their Plan and when they did not do so she issued her Report recommending that the Local Plan is not adopted. SDC have sought to challenge this position in the High Court but were unsuccessful. Similarly in Tonbridge and Malling Borough Council District Ms Crosby and Mr Fleming could find little evidence of constructive, active and on-going engagement between the Council and SDC in seeking to address SDCs un-met housing needs. They also sought to be pragmatic in addressing the situation but were unable to ignore a failure to comply with the DtC. Their letter advises Tonbridge and Malling Borough Council to withdraw their Plan from Examination.
- 2.18 Tunbridge Wells Borough Council rely on the same basic evidence with respect to the DtC as Sevenoaks and Tonbridge and Malling in the WKHMA. However, TWBC have not taken steps to overcome the flaws in their approach to the preparation of their Plan

or in their compliance with the DtC. Therefore, they have not complied with Section 33A of the Planning and Compulsory Purchase Act 2004.

### Item 3 – Sustainability Appraisal

*Question 1: Option 11 in the Sustainability Appraisal of the Local Plan (Version for Submission)<sup>4</sup> tests a growth strategy which includes an additional 1,900 dwellings (equivalent to the need identified by Sevenoaks District Council in April 2019). What were the outcomes of this assessment and how did they inform the preparation of the Plan?*

- 2.19 Option 11 in the SA includes an additional 1900 dwellings currently un-met in Sevenoaks District and a further 116 that are unattributed ( $853 - 741 \times 18 = 2016$ ). It is not clear why this figure was selected but the overall scale of growth would increase by some 3000 dwellings (167 pa) over the plan period compared to the capped standard method. This approach is supported as being achievable, sustainable and giving appropriate recognition to the needs of neighbouring authorities.
- 2.20 A similar approach was tested as Growth Strategy 7 (GS7) in the Reg 18 Local Plan SA (Table 14). The scoring was weighted negatively against the Draft Local Plan spatial distribution strategy (Table 15) because it was assumed that the additional dwellings would all be located in the AONB with inevitable adverse impacts upon Air Quality, Biodiversity, Climate Change, Deprivation, Equality, Heritage and Landscape. Strangely no additional score was given to Housing. Had TWBC applied the same spatial distribution to this Option as to other Options the outcome would have been very different. Slight negative scores to Noise, Services and Facilities, Travel and Water were also applied, whereas in the selected Spatial Strategy (Table 15) these elements were categorised as Unknown or Mixed.
- 2.21 The assessment is therefore clearly unbalanced and strongly influenced by the arbitrary assumption that all the additional dwellings would be located in the AONB rather than spread evenly across the preferred spatial distribution strategy.
- 2.22 Nevertheless, a careful comparison of the relative scores demonstrates that there is no significant difference in outcome and individual score differences are marginal.
- 2.23 It is not clear whether this approach was carried through to the discussions on the scores in Option 11 of the Submission Plan SA. TWBC will have to explain whether this was the case and, if not, why they changed that approach. However, assuming that their approach was consistent then the scoring outcomes for Option 11 will be similarly unfairly weighted and unbalanced as in GS7 of the Reg 18 Plan.
- 2.24 Table 26 in the Submission SA (Page 84) gives an overview of the scores for the strategic growth options. Again, increased housing numbers do not get any higher scoring for housing provision and many of the decisions appear to be based on arbitrary assumptions rather than robust evidence. The whole assessment is therefore very high level and useful as general guidance only – however the scores achieved by Option 11 are not clearly or significantly inferior to other Options and this remains a sustainable Option.
- 2.25 Question 2: Does Option 11 test the minimum housing requirement plus 1,900 dwellings to help meet unmet needs from elsewhere, or an alternative, higher figure? What is the justification for this?

- 2.26 Option 11 is the minimum capped figure of 678 dpa plus 106 dpa for Sevenoaks and a further 63 dpa which is unattributed, making a total of 847 dpa or 15,246 dwellings over the full plan period.

*Question 3: Does the Sustainability Appraisal adequately and robustly test a strategy that would contribute towards meeting previously identified unmet housing needs from Sevenoaks?*

- 2.27 No. As in the answer to Q1 above the testing has not been thorough. It appears to be limited to alternative options in the Reg 18 SA and Submission Plan SA which have been scored on the basis that all additional dwellings would be located in the AONB and would consequently have widespread and unavoidable adverse impacts. This is not a balanced or justified assumption on which to base the testing of alternatives. The scoring is therefore arbitrary and unbalanced.

*Question 4: Has the Council, through the Sustainability Appraisal, considered alternative strategies which avoid major development in the High Weald AONB altogether?*

- 2.28 Yes. Option 2 - No AONB Majors : but this does not meet the minimum housing need.

- 2.29 Due to the geographical extent of the AONB which covers a large proportion of the Borough, this would not be a practical, viable or justifiable Option. A strategy that seeks to limit development in the AONB, taking advantage of opportunities to minimise and mitigate impact upon the AONB at individual sites, is a more sustainable and balanced approach.

*Question 5: Has the Council, through the Sustainability Appraisal, considered alternative strategies which avoid releasing land from the Green Belt?*

- 2.30 Yes. Option 1 – No Green Belt loss but housing need not met and Option 6 Meet need with no Green Belt loss. The latter is a practical option but only meets existing uncapped need. Some release of land from the Green Belt is justified where sites do not currently make any essential contribution to the purposes of the Green Belt. A balanced approach with no Garden Settlement, a focus on main towns, limited releases from the Green Belt and sensitive development in the AONB is the optimum strategy but this has not been properly tested.

*Question 6: Does the Sustainability Appraisal adequately and robustly consider alternative distributions of development, such as focusing growth toward existing settlements such as Royal Tunbridge Wells, rather than relying on a new settlement?*

- 2.31 Yes. Option 4 –Main Towns and 5 – Main Towns and Villages. As stated in response to Q5 above, the optimum strategy, which does not involve a Garden Settlement, has not been properly tested. The closest to this would be Option 5 – Main Towns and Large Villages – which has much to commend it but does not provide for anything more than the minimum existing capped need. Less extensive releases of Green Belt land in villages surrounding Paddock Wood and on sites that currently make only a limited contribution to the purposes of the Green Belt is a more balanced and effective option. However, such small releases are not included in the Option 5 strategy to compensate for the absence of a new settlement at Tudely. They could form a worthwhile addition to the Option 5 strategy.



*Question 7: Having established the strategy, what reasonable alternatives has the Council considered through the Sustainability Appraisal to the new settlement proposed at Tudeley?*

- 2.32 A number of the 13 options tested do not include a Garden Settlement. Some are unviable but others, particularly Option 5, present better alternatives and, with some modifications, could form the basis for a sound Local Plan strategy.

*Question 9: Does the Sustainability Appraisal adequately and robustly consider reasonable alternative strategies for the size and scale of development proposed at Tudeley Village and Paddock Wood, including land at East Capel? For example, does it consider smaller and/or larger forms of development as a way of meeting housing needs?*

- 2.33 Whilst it is considered that a strategy that does not include a Garden Village at Tudeley is viable, reasonable and indeed preferable, it is not considered that it is viable to exclude all further expansion of Paddock Wood. There is merit in the idea of smaller releases from the Green Belt and such opportunities do exist, for example at Five Oak Green. However, these opportunities have not yet been thoroughly considered or tested as part of an alternative strategy. This is a serious flaw in the Submission Local Plan Strategy.

*Question 10: Where individual sites are concerned, how did the Sustainability Appraisal determine what were reasonable alternatives?*

- 2.34 This is not clear. From the point of view of Stakeholders in the Local Plan Process there have been a number of unexplained or unjustified site selections and changes of position in relation to individual sites that have occurred. There does not appear to have been any inclusive, transparent, coherent or consistent approach to site selection or testing against alternatives.

*Question 11. Are the scores and conclusions reached in the Sustainability Appraisal reasonable, sufficiently accurate and robust to inform the submission version of the Local Plan?*

- 2.35 The SA is a high-level process which is inevitably susceptible to pre-determined decision making, subjective opinion and arbitrary judgement. It's value is therefore primarily comparative and to reveal significant disparities or clear cut planning objections. The various versions of the SA (the Reg 19 Version was untraceable on the Council's website in February 2022) do appear to have been unjustifiably weighted by pre-conceived assumptions rather than being wholly objective and balanced. Ultimately, however, the conclusions are that there is no clear-cut preferred strategy and controversial large scale schemes such as the Tudeley Garden Settlement are avoidable. Certainly, the scores and conclusions reached in the SA are not sufficiently robust and accurate to justify the selection of the Submission Local Plan Strategy rather than other strategies which score well. There also appears to be a prevailing stance of giving greater importance to the protection of the AONB rather than the Green Belt. Both are extremely important in planning terms but, if any preference is to be displayed, then Green Belt, as an absolute policy, should be pre-eminent rather than AONB where development impacts that are limited or can be suitably mitigated, are acceptable.

#### Issue 4 – Other Aspects of Legal Compliance

*Question 3: Were representations adequately taken into account?*

- 2.36 Tunbridge Wells Borough Council has set out within Part 2 of the Consultation Statement for Submission Local Plan (Core Document 3.134b) that the medical centre can be delivered without a residential component on the Site. Page 295 (under Policy AL/HA 5 states that:

*“Discussions with the site owners/promoter indicated that land was available to deliver the medical centre without enabling development”.*

- 2.37 This statement is incorrect and does not represent the discussions had between Tunbridge Wells Borough Council and Rydon Homes.
- 2.38 There are numerous considerations beyond simply the landownership that ensure that delivery simply for a Doctors Surgery is not achievable without residential development.
- 2.39 Whilst it has been agreed that the Doctors Surgery will be purchased for a nominal fee. The restrictions of the contract mean that Rydon Homes can only serve notice to purchase the Site once a planning permission has been issued which comprises residential development. This requirement is also within the contract with the Doctors, so the Doctors cannot get control of the land without Rydon Homes serving notice to the landowners (which requires a planning permission to be secured comprising part residential floorspace).
- 2.40 In addition to this, there are issues regarding access through Birchfield Grove, which Rydon Homes only have the ability to overcome along with a ransom strip between Birchfield Grove and Fowlers Park land.