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Dear Mr Cole

### **MATTERS ARISING FROM WEEKS 3 AND 4 HEARINGS**

There are three matters arising from the hearings in weeks 3 and 4 that we wish to raise now in order that the Council can respond to them at this stage rather than wait for the completion of the hearings. These are as follows.

1. Policy HOU2 b) contains a criteria that any scheme for local needs or specialist housing should have the support of the relevant parish Council. What is the justification for this given the different types of housing covered by the policy and the potential to effectively move decision-making away from the local planning authority?
2. Part of the proposed site allocation S2 (land north-east of Willesborough Road, Kennington) is within a Mineral Safeguarding Area (MSA) as identified in the Kent Minerals and Waste Local Plan (MWLP). Kent County Council's representation ALP/2559 refers to the likely presence of Sandstone (Folkestone Formation) within the site. The Minerals and Waste Safeguarding SPD of April 2017 indicates that in such circumstances local planning authorities should consider what measures may be taken to mitigate the effect of the development on the safeguarded resources or assets. Policy DM7 of the MWLP provides that planning permission will be granted for non-mineral development that is incompatible with mineral safeguarding if, amongst other things, it constitutes development of a site allocated in an adopted development plan. Therefore we consider that an assessment of the kind referred to in the SPD is required at this stage in order to avoid it being 'bypassed'.

Such an assessment should be undertaken in conjunction with the mineral planning authority and should consider the type and economic value of minerals likely to exist, whether they are required to maintain supply having regard to paragraph 146 of the National Planning Policy Framework (NPPF) and the viability and practicality of extraction. Criterion 5) of Policy DM7 allows for instances where the need for development overrides the presumption for mineral safeguarding but until some further evidence about the minerals that might be sterilised comes forward it will not be possible to reach a view in that respect.

We are conscious that this matter does not only affect S2. Similar considerations apply to other proposed allocations in the Local Plan and

these should also be investigated in conjunction with the mineral planning authority. This may not require an assessment of each and every site affected by a MSA as a general position statement may suffice but greatest attention should be given to the proposed allocations with the highest indicative capacity.

3. Question xiv) of Issue 12 concerns the application of the sequential and exception tests in relation to flood risk as referred to at paragraphs 100 - 102 of the NPPF. This matter was also discussed in relation to proposed site allocation S3 (Court Lodge) but equally has a bearing on other proposed allocations.

Paragraph 022 of the Planning Practice Guidance (PPG) on Flood Risk gives detail on how these tests should be undertaken. However, it is not apparent to us from the Sustainability Appraisal (SA) or other evidence how the decision making process has been carried out in this respect. In particular has it reflected the principle that development should be steered to sites in Flood Zone 1 but if there are no reasonably available sites then land in Flood Zones 2 and 3 should be considered? Such considerations may be embedded within the SA but there is not a clearly reasoned justification for allocating land either wholly or partly in areas of high flood risk. The PPG refers to demonstrating the sequential test in a free-standing document and the Council should give consideration to doing this and also including, where necessary, the two parts of the exception test.

The Statement of Common Ground with the Environment Agency (ED/03) does not refer to this matter but it may be useful to consult further with them in this respect.

If there are any questions about the matters raised above then please contact us via the Programme Officer. It would also be helpful to have some estimate about when the further work we are requesting might be able to be completed.

*David Smith*

*Steven Lee*

INSPECTORS

14 May 2018