Our Ref: SB/JS/7953

14th November 2019

Local Plan Consultation
Planning Policy
Planning Services
Tunbridge Wells Borough Council
Town Hall
Civic Way
Royal Tunbridge Wells
Kent
TN1 1RS

Dear Sir/Madam,

TUNBRIDGE WELLS BOROUGH COUNCIL DRAFT LOCAL PLAN: REGULATION 18 CONSULTATION

REPRESENTATIONS ON BEHALF OF MILLWOOD DESIGNER HOMES LTD

OMISSION OF LAND WEST OF IDEN GREEN ROAD, BENENDEN AS A HOUSING ALLOCATION

Introduction

General

We refer to the above Regulation 18 Local Plan ("LP") consultation document and write on behalf of our client, Millwood Designer Homes, setting out a number of comments upon the policies and proposals contained therein.

As you will doubtless be aware, our client is a Kent-based developer of long standing repute for high quality residential schemes. They have a number of current land interests in the Borough, and these representations are submitted both generally in terms of the overall spatial strategy, and settlement-specific in relation to their land interest to the west of Iden Green Road, Benenden (SHLAA Site Ref: 222).
Policies and Proposals

Our representations relate to the following policies and proposals:

- STR 1: The Development Strategy
- STR10: Limits to Built Development
- STR/CA 1: The Strategy for Capel Parish; as well as:
  - AL/CA 1: Tudeley Village
  - AL/CA 3: Land at Capel and Paddock Wood
- STR/PW 1: The Strategy for Paddock Wood; as well as:
  - AL/PW 1: Land at Capel and Paddock Wood
- STR/BEl: The Strategy for Benenden Parish
  - AL/BE4: Land at Benenden Hospital
- EN17: Local Green Space

Our representations are also accompanied by a duly completed response form.

Our detailed comments are set out below.

Supporting Particulars: Site Specific Representation - the omission of land to the west of Iden Green Road, Benenden as a housing allocation

Millwood Designer Homes has a controlling interest in land to the west of Iden Green Road which extends to approximately 2.5ha.

The site has been assessed in the Council’s Strategic Housing and Economic Land Availability Assessment ("SHELAA") under Site Ref: 222.

We have undertaken a thorough assessment of the character of the site and surrounding area and consider that it affords a sustainable development opportunity for approximately 28 dwellings, to include the creation of a larger publicly accessible area of green space and reinstatement of the pond in the north east corner of the site.

We consider this would enhance the public realm and would enable a high-quality scheme for a small number of dwellings to be located within walking distance from local services and facilities, helping to further sustain and support local businesses.

Plans and particulars are enclosed in support of our representations, which seek the allocation of the site for approximately 28 dwellings as follows:

(i) Site Location Plan No. P318/LP/1001
(ii) Figure 3 – Landscape Strategy
(iii) Heritage Statement and Local Green Space Assessment (Nov 2019) (RPS)

We set out the merits of the site as a housing allocation in response to the Benenden-specific policies below.
Our detailed representations are also accompanied by a duly completed comment form.

Overarching Comments

As an overarching position statement, it is our view that the Plan as drafted is unsound having regard to

1. The over reliance on housing delivery from strategic sites.

2. The allocation of sites that cannot be said to be justified when taking into account the reasonable alternatives (see point (3) below).

3. The omission of land west of Iden Green Road, Benenden as a housing allocation for approximately 28 dwellings (Site Ref: 222)

On the basis of the foregoing, and as expanded upon below, we do not consider the Plan to be positively prepared, justified, effective or consistent with national policy at this stage in the plan-making process. However, it is clearly a good start and we welcome the opportunity to work with the Council in addressing our comments, including in relation to the omission of our client’s land interest.

The next iteration of the Local Plan (the Regulation 19 stage) provides the opportunity to make the necessary changes in order to ensure the Plan can be said to be sound and that it represents the most appropriate strategy when assessed against the alternatives; and that it is consistent with national policy.

For the Plan to be found sound, modifications are required to be made to the Plan in response to our concerns expressed at points (1) to (3) above.

NPPF Considerations

General: Tests of Soundness

Section 3 of the NPPF (February 2019) sets out the principal components to be included in local plans.

In order to be found “sound”, paragraph 35 of the NPPF requires the plan to be positively prepared, justified, effective and consistent with national policy.

A positively prepared plan provides a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs, and is informed by agreements with other authorities so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development.

In order to be justified the DPD must be an appropriate strategy, taking into account reasonable alternatives; and should be informed by a proportionate evidence base.

Effective means the document must be deliverable over the plan period and based on effective joint working on cross-boundary strategic matters, including meeting unmet needs from adjoining authorities.
Proposed Amendments

For the reasons set out in these representations there are a number of shortcomings with the Plan as currently drafted, that result in the need for amendments.

Our suggested amendments, necessary to satisfy the tests of soundness, may be summarised as relating to the following:

- Acknowledgement that the existing supply of housing commitments are insufficient in both quantum and nature to meet both immediate and longer term needs;

- The need for greater flexibility within the Plan to meet the overall housing requirement for the plan period. These concerns can only be resolved through the identification of additional allocations;

- Delete the proposed Local Green Space designation of land west of Iden Green Road, Benenden (Ref AS_45); and

- The allocation of land west of Iden Green Road, Benenden for approximately 28 dwellings (SHELAA Site Ref: 222)

Policy STR 1: The Development Strategy

Representation

The Council has followed the Standard Method approach to identifying the housing need for the Plan period. This approach is supported as it is compliant with the requirements set out in the NPPF.

The resulting minimum housing requirement of 13,560 dwellings (678 per year) is therefore considered to be appropriate in terms of plan-making.

However, the housing requirement needs to be embedded into the actual policy wording, i.e. within the green policy box. As presently drafted it is located in the supporting text and within tables 1 and 3. This will provide for greater clarity and certainty in relation to the policy requirements.

Additionally, to be in accordance with the NPPF and the Government’s objective to significantly boost the supply of homes (para. 59, NPPF, 2019), the housing requirement should be highlighted as a minimum figure, and not a ceiling target.

In respect of Table 1, we note that the table sets out the requirement for 13,560 dwellings to be met in the period 2016 – 2036. This should be clearly expressed as a minimum target.

The components of supply in Table 1 suggest the need to allocate a minimum of 7,593 dwellings to meet the remaining requirement (after taking into account of completions, commitments and windfalls).

The deliverability of the other elements of supply depends upon whether the sites within rows 3, 4 and 5 come forward. Their deliverability has yet to be tested through the examination process.
Paragraph 4.15 of the draft Local Plan refers to the need to make an allowance for the delay and/or non-delivery of a proportion of the identified sites. This approach is supported.

Paragraph 4.16 states that the total capacity of all of the identified components of supply, including the proposed allocations, could deliver around 14,776 dwellings during the plan period. It is said that this is 9% in excess of the 13,560 minimum target requirement.

However, including for the reasons set out in our representations upon Policies STR/CA1 and STR/PW1, we have concerns about the Council’s housing trajectory and the assumptions in relation to the timing for and delivery of dwellings from certain of the strategic site allocations.

If realised during the plan period, the purported delivery of 14,776 net additional dwellings would be 1,216 dwellings in excess of the minimum requirement. However, and with reference to pages 27 and 30 of the Housing Supply and Trajectory Topic Paper, even if delivery at Tudeley (AL/CA1) and Paddock Wood (AL/PW1) is delayed by only 2 years the ‘surplus’ against the minimum requirement would be reduced to less than 200 dwellings. This assumes all of the other components of supply deliver at the point envisaged.

Given the inherent delays with the planning for and delivery of strategic sites, the approach to site allocation cannot be said to be justified and is likely to fail to provide for a flexible supply of housing land.

In any event row 6 in Table 1 should be re-worded to increase the allocations required, in order to provide not only for the planned housing requirement, but also to identify additional sites for choice, flexibility and competition in the market in line with national policy.

We agree with the approach to disperse housing allocations across the Borough and allocate land for additional housing at many of the smaller (and sustainable) settlements.

As a general note, it is unclear from the wording of the draft site allocations, where a range of dwellings is indicated, how many dwellings are required to be delivered from each site in order to meet the housing requirement.

**Suggested Change**

The **housing requirement needs to be embedded into the actual policy wording**, i.e. within the green policy box. As presently drafted it is located in the supporting text and within tables 1 and 3. This will provide for greater clarity and certainty in relation to the policy requirements.

The 13,560 dwelling housing target should be clearly expressed as a minimum.

The Council should reviews the delivery assumptions for and of the strategic sites.

Additional small scale deliverable sites at sustainable locations should be allocated for housing development in order to ensure an adequate and flexible supply of deliverable housing land.
Policies STR 10: Limits to Built Development

Representation

We object to the Limits of Built Development in so far as they relate to the settlement of Benenden.

In setting out our representations we have considered the evidence base, including, but not limited to the following:

- Distribution of Development Topic Paper (Sept 2019)
- Housing Supply and Trajectory Topic Paper (Sept 2019)

Understanding the level of need and the most appropriate approach to the distribution of growth is important to assessing the appropriateness of the approach to the definition of settlement boundaries and the associated approach to site selection and allocation for development within revised built development limits.

For the reasons set out in response to Policy STR1, STR/CA1, STR/PW1, STR/BE1 and EN17, the definition of the settlement boundary for Benenden is not justified as it cannot be said to represent the most appropriate strategy taking into account the reasonable alternatives.

Section 10 of the LBD Topic Paper sets out the approach to reviewing the settlement boundary at Benenden, with proposed amendments shown on the Map included on page 11.

Map reference 1 proposes to revise the boundary to exclude Old Manor House, west of New Pond Road. It is suggested that this is because it is a listed building/heritage asset with an important landscape setting.

There are any number of listed buildings (and their associated curtilages) within the built up area of Benenden. Moreover, land to the west of Old Manor House comprising dwellings north and south of the B2086 are strangely excluded from the review. These dwellings should be included within the LBD along with land west of Iden Green Road (Site Ref 222).

Suggested Change

The inclusion of Old Manor House, dwellings to the west and Site 222 within a revised settlement boundary represents a logical and sensible approach to defining the LBD at Benenden.
Policy STR/CA 1: The Strategy for Capel Parish and
Policy STR/PW 1: The Strategy for Paddock Wood

Representation

The strategy for Capel Parish and Paddock Wood seeks to provide for significant growth as follows:

- The provision of a standalone garden settlement (referred to as Tudeley Village) of 2,500-2,800 dwellings, of which 1,900 are expected to be delivered in the plan period, together with appropriate employment, including retail provision, within the settlement. This is required to be developed using a comprehensive masterplanned approach;

- Together with land outside of Capel parish on the northern, eastern, and southern sides of Paddock Wood, and within the town centre, a proportion of approximately 4,000 new dwellings and associated education, leisure, and health facilities to be delivered (on the wider allocations). Again, they are required to be advanced using a comprehensive masterplanned approach.

The approach to masterplanning and delivery states as follows:

“The comprehensive masterplanning approach will require close liaison and involvement with local communities and organisations, infrastructure providers, statutory consultees, relevant landowners and developers, and county and neighbouring authorities, and will follow garden settlement principles. Proposals for the piecemeal development of individual sites will not be supported....”

The strategic site allocations include a number of separate land ownerships and there are significant infrastructure issues to address and deliver.

In setting out our concerns in response to Policy STR 1 above, we have considered the content of the Housing Supply and Trajectory Topic Paper (Sept 2019) and the analysis set out therein in relation to build rates etc.

Including for the reasons set out in that Paper, and the accompanying source documents (paragraph 4.2.2 refers), we consider the assumed build rate of 299 dwellings per annum at the strategic allocations of 2,000+ dwellings (Table 8 refers) is overly optimistic.

Reliance on overly optimistic build rates artificially inflates the assumed rate of completions set out in Table 9 of the Topic Paper.

The available evidence does not support nor justify relying upon 150 completions from Tudeley village (AL/CA1) in 2025/26 and nor does it justify 333 completions from Paddock Wood (AL/PW1) in 2024/25.

A more robust assessment, with a more realistic start date and annual rate of completions would require additional site allocations in order to demonstrate a deliverable and developable supply of housing land sufficient to meet the minimum housing target during the plan period.
Suggested Change

Revise the delivery assumptions for the sites to provide for a more realistic date for first completions as well as a more realistic annualised build rate.

Policy STR/BE 1: The Strategy for Benenden Parish

Representation

The strategy at Benenden Parish for providing 119 – 129 new dwellings is supported, as Benenden is a settlement with a Limits to Built Development boundary (LBD). However, this figure should be expressed as a minimum.

The draft policy identifies 4 sites to be allocated, this includes sites with planning permission.

The largest proportion of new dwellings to be met in Benenden Parish are directed towards Benenden Hospital (Policy AL/BE 4 refers).

This location, whilst being close to a major employment site, is considered unsustainable in all other respects. It is not close to existing schools, local shops, main roads or sustainable transport modes. It is considered unsustainable and inappropriate to direct development towards an isolated countryside location.

Omission Site: Land west of Iden Green Road, Benenden

Our client’s site comprising land to the west of Iden Green Road, Benenden (Site Ref: 222) is considered suitable either as an alternative or as an additional housing site. The Site is edged red on Plan P318/LP/1001 and extends to approximately 2.5ha.

We have undertaken a thorough assessment of the character of the site and surrounding area and consider that it affords a sustainable development opportunity for approximately 28 dwellings, to include the creation of a larger publicly accessible area of green space and reinstatement of the pond in the north east corner of the site. We consider this would enhance the public realm and would enable a high-quality scheme for a small number of dwellings to be located within walking distance from local services and facilities, helping to further sustain and support local businesses.

The potential to provide for the development of the site has been considered in relation to heritage, landscape and ecology, which matters can be summarised as follows:

- Development of the site for housing and a large publicly accessible area of green space provides an opportunity to enhance the appearance of part of the Conservation Area through the creation of an attractive and sensitively designed residential extension to the village.

- A scheme can also be designed in relation to the desirability of preserving the setting of the listed buildings considered to be affected and the special character and appearance of the Benenden Conservation Area.
Figure 3 has been prepared following a detailed review of the landscape character of the site and surrounding area and enables the retention of substantial trees on the site, most notably the lime trees along the frontage.

A suite of ecological surveys has been undertaken across the site throughout spring and summer 2018, including an Extended Phase 1 Habitat survey, bat surveys, reptile surveys and great crested newt surveys.

The majority of the site comprises semi-improved grassland of limited ecological value. Several semi-mature trees, principally oak, are present in and around the site. These have some ecological value, offer potential bat roosting opportunities, as well as sites for nesting birds.

The pond on the northern boundary is relatively small and although it contains water, is becoming choked with sediment and debris. It also contains a large area of the highly invasive New Zealand pygmy weed.

There are ample opportunities within the site to provide ecological enhancement measures. These will need to include improvements for the slow worm population as well as improvement to the newt pond – possibly dredging it out and removing the pygmy weed.

The Parish has highlighted in their assessment of the site, the potential benefit of developing this site is enhancing the pond, which would have not only an ecological benefit, but would improve the Conservation Area, thus positively supporting the local heritage value. These benefits are unique to this site in being able to deliver environmental benefits in addition to the social and economic benefits brought about through the provision of new housing.

Including for the reasons set out in response to Policy EN17 below, the suggested designation of the site as a Local Green Space is not supported by the Council’s assessment. Moreover, we have undertaken our own analysis of the position, including in relation to the application of the approach set out at paragraphs 99 and 100 of the NPPF. This demonstrates that designation of the site as a local green space does not accord with the approach at paragraph 99 of the NPPF and nor does it satisfy the test at paragraph 100(b) of the NPPF for it to be demonstrably special to a coal community and holds a particular local significance.

Suggested Change

Allocate land west of Iden Green Road as a housing allocation for approximately 28 dwellings.

**Policy AL/BE 4: Land at Benenden Hospital**

**Representation**

We object to the allocation of this site for housing in so far as it is not as sustainable as providing for allocations at the village of Benenden. It is not as sustainable as the alternative of providing for development at the village and cannot be said to be justified.
Suggested Change

Allocate land west of Iden Green Road (Site Ref 222) as an alternative or in addition to AL/BE4.

### Policy EN17: Local Green Space

#### Representation

We object to the proposed designation of land west of Iden Green Road, Benenden as a Local Green Space.

Our comments are supported by a thorough assessment of the proposed designation, which details are set out in the accompanying Heritage and Local Green Space Assessment undertaken by RPS (Nov 2019).

As set out at paragraph 6.175 of the consultation draft Local Plan, the methodology used to evaluate the appropriateness of Local Green Space designation for proposed sites is detailed in the Council’s Local Green Space Designation Methodology July 2019 document.

The Council’s separate and supporting “Local Green Space Assessment (Draft)” (July 2019) lists all the proposed Local Green Space sites across the Borough, and assesses them against the methodology set out in the Local Green Space Designation Methodology July 2019 document.

We have reviewed the documents in full.

The methodology requires that proposed Local Green Space areas must generally meet all five criteria in order to be designated as Local Green Space, unless the site is already sufficiently protected. The five criteria are summarised as:

1. The site is not the subject of planning permission.
2. The site is not allocated or proposed for development other than for the inclusion of a Local Green Space.
3. The site is not an extensive tract of land (generally greater than 20 hectares).
4. The site is in reasonably close proximity to the community it serves.
5. The site is demonstrably special to the local community (because of its beauty, local historic significance, recreational value, tranquility, or richness of wildlife).

The fifth criteria is sub-divided into 5 sub-parts, the approach to which is set out on pages 6 and 7 of the Council’s Local Green Space Designation Methodology July 2019 document.

The Council’s consideration of sites in Benenden is set out on pages 8 to 10 of the Local Green Space Assessment.

The site is assessed as Site ref AS_45 (New Pond Corner). The Council suggest the site satisfies the criteria for Local Green Space designation.
Under the assessment sub-heading “Comment on Criterion 5 – demonstrably special?” the assessment states in relation to the site as follows:

“This area includes a pond, surrounding trees and green space. This area contributes to the character/settling of the settlement and is therefore suitable for Local Green Space designation.”

We dispute this analysis, including for the reasons set out in the accompanying Heritage and Local Green Space Assessment undertaken by RPS (Nov 2019).

The assessment is set out in section 2 of the Statement, which includes the following commentary in relation to Site AS_45:

“This site contributes to the conservation area in a limited way. Its contribution is associated to the sense of openness that it provides when viewed from The Street because of the narrow views through the trees and hedges that line the northern boundary of the site. There are no clear views of the site from The Street. The sense of openness is a perception of the space rather than a close or immediate experience. From within Iden Green Road, there is only a very limited sense of the field to the west because the hedges are dense and prevent views into the site. There are no public rights of way through the area and so opportunities to increase the perception of the area are not possible.

There is no historic significance to the area. It is not connected to other designated areas such as The Homested or undisignated heritage such as The Grange. It has no role in the development or social history of the settlement.

It makes a modest contribution to the settings of nearby listed buildings and the CA.”

As to whether inclusion of the site as a Local Green Space is justified pursuant to criterion 5, the RPS Statement is quite clear that it is not, concluding as follows:

“No. There is little to no townscape value to the site because it is not visible within the streetscene. There is no public access to allow any perception of the character or quality of the space.

It does contribute to the significance of the CA and the nearby LBs to a limited degree but this contribution is protected already through existing designations and the PLBCAA.”

For all of the reasons set out above, the proposed designation of land west of Iden Green Road, Benenden as a Local Green Space is not justified having regard to the tests of soundness at paragraph 35 of the NPPF.
Suggested Change

Delete the proposed designation of land west of Iden Green Road, Benenden (Site Ref: AS_45) as a Local Green Space.

Summary

On the basis of the foregoing, the Regulation 18 draft Local Plan does not currently satisfy the tests of soundness for the following reasons:

- **Unjustified** – The plan is not the most appropriate strategy when compared to the reasonable alternative of additional allocations in sustainable locations such as Site 222 at Benenden.

- **Ineffective** – The proposed distribution strategy and over-reliance on strategic sites fails to deliver the necessary level of housing development, including addressing potential unmet needs (to be agreed during the evolution of the Local Plan process).

- **Inconsistent with National Policy** – The proposed distribution strategy fails to boost the supply of housing or maximise sustainable patterns of housing growth, including on account of failing to provide for an appropriate level of growth on sustainably located sites.

Our client’s site west of Iden Green Road, Benenden offers a sustainable and deliverable opportunity to provide for approximately 28 dwellings, in a landscaped setting, within walking distance from local services and facilities.

The northern part of the site can provide for publicly accessible amenity space, providing for an enhanced public realm.

We trust the above comments are of assistance in producing the Local Plan and await confirmation of receipt of our representations in due course.

Finally, we welcome the opportunity to enter into dialogue with the Council in order to discuss our comments in the context of seeking to ensure a sound Local Plan.

Please do not hesitate to contact the writer should you wish to discuss any matter(s) arising.

Yours faithfully

Steven Brown BSc Hons DipTP MRTPi

Enc.