



Julia Riddle
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15th August 2019

SENT BY EMAIL ONLY

Dear Mrs Riddle

**Report to Planning and Transportation Cabinet Advisory Board 5th August 2019
Report to Cabinet 15th August 2019
Consultation on Draft Local Plan (Regulation 18) and Sustainability Appraisal**

Thank you for your letter dated 31st July 2019. I apologise for the delay in responding.

My response below covers both points raised in your letter and in the communication given by Mr Tom Adam on behalf of Capel Parish Council and Save Capel, and also provides the information I relayed to the Planning and Transportation Cabinet Advisory Board (P&T CAB), for completeness. I know that this response will be circulated on the Save Capel website and via social media, and so I have sought to explain matters in perhaps less technical – and therefore more wordy - language than I would if I was responding to you (as a planning agent) on a different matter.

I should say out the outset, and as I advised at the P&T CAB, I, and I know TWBC Members, understand the level of feeling in Capel, and the concern at the proposed allocations. As has been stressed, the decisions which have been made to this point, which are reflected in the proposals in the Draft Local Plan, have not been taken lightly, and the comments and representations made in the Regulation 18 consultation (if Cabinet agree to that today) will be taken into account in the course of preparing the Pre-Submission Local Plan.

I, and again I know Members, believe that ongoing communication with Capel Parish Council, and other organisations, will be very important in the coming months and years – and I trust this was reflected in both my commentary provided at P&T CAB and the answers given to questions.

However, there are some key matters where I considered it was necessary, and is necessary in this letter, to provide commentary which will be in direct contradiction to statements in your letter. This is solely so there is clarity for all involved, and I look forward to open and positive communication with the Parish Council and other organisations in the future.

The Local Plan Process

As you are aware, and as indicated in Figure 1 on Page 23 of the P&T Agenda, the Council has (since 2016) been undertaking work on gathering and assessing a considerable amount of evidence to inform the development and preparation of the Draft Local Plan. A list of the evidence based documents is set out in Appendix D to that Report.

The Council consulted on an Issues and Options document in summer 2017: this set out the main issues facing the borough, and provided five options as to how the development needs could be met. This was undertaken as what is known as a Regulation 18 consultation, and for your clients who may not have been involved in the production of a Local Plan before: Regulation 18 refers to Regulation 18 of the Town & Country Planning (Local Planning) (England) Regulations (2012).

- This is the same Regulation that it is proposed to undertake the consultation on the Draft Local Plan in September – November 2019;
- This differs to consultation undertaken under what is termed Regulation 19.

At this point it is pertinent to address the comment made in your letter that one of the options in the Issues and Option proposed a garden village, but it did not set out where this would potentially go.

That is absolutely right. It did not. However, one of the questions in this consultation was if a garden village were to be the preferred option, where would it go. A broad range of responses were received to this question – with responses suggesting locations spread across the Borough.

However, it is precisely through the second Regulation 18 consultation on the Draft Local Plan when the Council will be consulting on the location of this – and it is through this consultation and engagement that the Council will be seeking the views of residents and businesses from across the Borough. As required by the Regulations, those representations received will be taken into account in the formation of the final version of the Local Plan.

As explained at para 2.9 of the report to P&T CAB, following the Issues and Options consultation, the Council has reviewed the comments received from that consultation, has continued to compile the evidence base to inform the Draft Local Plan, and has been liaising and engaging with Parish and Town Councils (PC/TCs), Neighbourhood Development Plan Groups (NDPGs), the Town Forum, infrastructure providers, consultees, neighbouring authorities and Kent County Council.

Monthly meetings of the Planning Policy Working Group have been held at TWBC throughout this period. As explained at para 2.10 of the Report, this is cross-party group which provides information and feedback on draft material, builds consensus on the potential content of the Local Plan, etc. Through-out this period all Members of TWBC have been invited by the Chairman of the Working Group – Cllr McDermott – and attendance has been broad and considerable.

As explained in the Agenda papers, the Draft Local Plan has been developed through this approach, informed by the Sustainability Appraisal.

In addition to the Draft Local Plan, an Infrastructure Delivery Plan has been prepared, as have a series of topic papers and other supporting information. The topic papers include those which explain the proposed spatial strategy for the Borough, housing delivery, changes to the Limits to Built Development, etc.

As explained in para 2.14 of the Report to P&T CAB, all of these will be available on the Council's website ahead of the 20th September to inform any interested parties' comments on the Draft Local Plan and Sustainability Appraisal.

Next steps

As explained in the Report, the next step is to consult on this Draft Local Plan, under Regulation 18. I note your views on page 4 of your letter that it is not a proper process for the first consultation with the residents of Capel Parish on such changes to take place via examination of a draft Local Plan under Regulation 18, and that there should be prior consultation before the draft Local Plan is prepared.

However, I would draw you attention to the differences between a Regulation 18 consultation and a Regulation 19 consultation:

- The Local Planning Regulations 2012 sets out that under Regulation 18 a local planning authority (LPA) must, when preparing a Local Plan:
 - 1) notify the following of what the Local Plan is proposing:
 - a) specific consultation bodies as the LPA may have an interest in the subject of the proposed Local Plan; and b) the general consultation bodies and c) such residents or businesses in the LPA's area which it considers appropriate to invite representations;
 - 2) invite these to make representations to the LPA about what the Local Plan ought to contain,
 - 3) take into account any representation made to it in response to these invitations.

This is precisely what the Council is seeking through the Regulation 18 consultation process – representations from consultees, residents and businesses. This is the regulatory route by which to undertake this consultation, as indeed it was for the Issues and Options paper.

As shown in Figure 1 on Page 23 of the report to P&T CAB, there is a subsequent stage of consultation on what is referred to as the Pre-Submission Local Plan – this is the central bubble in that figure. This is referred to as a Regulation 19 consultation. In contrast to Regulation 18, Regulation 19 of the Local Plan Regulations 2012 focuses on the tests of soundness as set out in national policy and guidance – i.e. it is a much more limited consultation procedure. Indeed, it is this version of the plan which will be subject to examination by the Inspectorate – not the Draft Local Plan which it is proposed would be subject to consultation in September – November 2019.

As you will be aware, it could be that the Local Plan changes considerably between the Regulation 18 and 19 consultations, or it could be that it is fairly similar. Therefore consultation under Regulation 18 is the appropriate way to undertake consultation and engagement with residents, businesses and others, and it is precisely through this, which starts some 10-11 months before the final consultation process, that organisations such as Capel Parish Council can provide a formal response to the Draft Local Plan.

Consultation undertaken at this point

In terms of the consultation which has been undertaken to this point:

- Para 2.8 of the report to P&T CAB gives some of the headline figures about the Issues and Options consultation;

- As mentioned above the Council has undertaken considerable engagement with the PCs, TCs and NDPGs over the last 18 months. Indeed, officers have held workshops and met with all PC and TCs at least twice in the last year, and in many instances on far more occasions.

In these we have discussed emerging thoughts on site allocations, and the PC and TCs have provided their thoughts on these. We have and continue to engage positively with all those groups preparing NDPs, reviewing drafts, providing advice etc.

Given my comments above about keeping open communication with Capel Parish Council, I am setting out the following solely for clarity. Your letter makes reference on page 4 to four events at which the proposals for Capel Parish Council were discussed. Unfortunately, this omits another five events, which gives the fuller picture. These include:

- 1) my attendance and discussions at a meeting of Capel Parish Council on 30th July 2018 where the fact that significant levels of development were likely to be proposed within the parish in the Draft Local Plan were relayed, although the precise locations were not discussed in detail;
- 2) the attendance of Capel Parish Council at a joint meeting between Paddock Wood Town Council, Capel Parish Council and TWBC on 23rd August 2018,
- 3) a workshop held with Capel Parish Council on 10th September 2018 at the town hall,
- 4) my attendance and discussions at Capel Parish Council on 25th February 2019, and
- 5) a meeting held with developers, infrastructure providers, landowners, consultees, Capel Parish Council, Paddock Wood Town Council, and Members of TWBC on 18th July 2019.

There are very good reasons for not being able to make public declarations about the Draft Local Plan until late May 2019 – including particularly that early announcements can trigger a wave of speculative planning applications, as developers who don't think they're going to be allocated in an emerging local plan seeking to gain an advantage through the submission of a planning application.

Infrastructure

Your letter makes reference to infrastructure planning. As you will see from the wording of the Draft Local Plan, the Council is acutely aware of the need for the timely delivery of infrastructure, and this is a theme which runs constantly and consistently through-out the Draft Local Plan. Accordingly, engagement and discussion have been held with infrastructure providers through-out the preparation of the plan process. As explained at para 5.3 of the report to P&T CAB, there has been a series of informal consultations on iterations of the Draft Infrastructure Plan, which has developed as the Draft Local Plan has developed.

The results of these have been provided to the Planning Policy Working Group through-out the last 18 months, and the PPWG has reviewed the recent most draft Infrastructure Delivery Plan in July this year. This is one of the key documents to support the Draft Local Plan, and as explained at para 2.21 of the Agenda report, this will be publicly available on the TWBC Local Plan website before the start of the consultation period.

Accordingly, there is not a “gap in the evidence”, as your letter suggests at page 6. The Draft IDP has been reviewed by Members, and will be available as part of the public consultation.

Future Engagement and Consultation

Page 31 onwards of the Agenda to P&T CAB explain how the Council will, if Cabinet agrees to the recommendations made, engage and consult on this Regulation 18 version of the Draft Local Plan.

As you will see, the Council is actively seeking to engage with as broad a range of residents, businesses, visitors to the Borough as possible at Regulation 18 stage:

- A copy of “Local” with an 8 page article will be delivered to every residence and business in the Borough;
- The consultation will be publicised by various media formats, there are ten exhibitions proposed across the Borough including on Saturdays and in evenings, and officers will be presenting to secondary school assemblies and sixth forms;

Both the Members of TWBC, and officers, understand that this is the key period of consultation – and the Council is seeking to make it as straightforward as possible for anyone to make representations, including through the new webpages, which is much more user friendly. This will be followed by a new representation portal, which will be by the far the most efficient and effective way for anyone to provide their representations. For those who don’t have access or like to use computers, details of where paper copies of the plans and documents, and the ability to send paper correspondence are also set out in the Agenda papers.

The policies for both Tudeley village and land at Capel and Paddock Wood both require that proposals be developed on a masterplanned basis. This will involve engagement of local communities within this process, and this represents a key element in the Council’s proposed policies for these sites.

Duty to Co-operate

Paras 2.26 – 2.27, and 5.3 of the report to P&T CAB provide further information on the discussions which have been undertaken, and are ongoing, under the Duty to Co-operate with neighbouring and county councils. This involves meetings between relevant officers, and indeed between relevant Portfolio Holders. Members have been updated as to the progress of these at Planning Policy Working Group. Statements of Common Ground have been signed with Sevenoaks District Council, and will shortly with Wealden District Council. They will be in due course with other neighbouring authorities, and Kent County Council (plus other organisations).

A Duty to Co-operate Statement will again be publicly available from the start of the consultation period.

In your letter you have expressed concern about the Duty to Co-operate discussions with Tonbridge and Malling Borough Council (TMBC) and Maidstone Borough Council (MBC). For absolute clarity, these discussions have included senior TMBC and MBC officers about the proposals at Capel and Paddock Wood and Tudeley, including in relation to infrastructure. This has included discussing joint procurement of some detailed transport studies.

Furthermore, the strategic policies in the Draft Local Plan STR/CA1 and STR/PW1 makes specific reference to the need for input from MBC and TMBC into the strategic infrastructure

masterplanning for these sites. Accordingly, I hope you are reassured that the written evidence of the discussions under the Duty to Co-operate will be part of the supporting documentation at the time of this Regulation 18 consultation.

Housing Need

As you are aware, the Government has set out a standard methodology for the calculation of the amount of housing that a Borough should plan to meet: often referred to as the standard methodology.

Without covering the details of the changes to the household growth figures between 2014 and 2016, as I explained at P&T CAB, the updated National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) is clear that the 2014 household projections should be used in calculating housing need. The following is set out in the NPPG:

Why are 2014-based household projections used as the baseline for the standard method?

The 2014-based household projections are used within the standard method to provide stability for planning authorities and communities, ensure that historic under-delivery and declining affordability are reflected, and to be consistent with the Government's objective of significantly boosting the supply of homes.

Paragraph: 005 Reference ID: 2a-005-20190220

Revision date: 20 02 2019

The TWBC Local Plan is based on the 2014 household projections, as that is what is set out in national policy and guidance. To not base the plan on the 2014 household growth projections would fly in the face of national policy and guidance. The TWBC Local Plan is following national policy in this respect.

I would suggest that the Regulation 18 consultation is the ideal route for yourself, and other representors, to provide their thoughts and views as to why the housing need figure should depart from national policy, and I, and I am sure Members, will read any such representations with great interest.

“No choice but to meet need”

Your letter asserts, on page 5, that TWBC is, to quote, proceeding on the basis that “*it has no choice about meeting the objectively assessed need, and has therefore decided to meet it by sacrificing large amounts of Green Belt land*”.

At the P&T CAB I explained that there is some contradiction in the NPPF. For example:

- as explained in the third bullet point of Para 2.2 of the report, the four key requirements that an Inspector will consider at examination to see if the Local Plan (in whatever form that is) is sound include the expectation that the strategy as a minimum seeks to meet the areas objectively assessed need;
- on the other hand, and as you point out in your letter, Para 11(b) the NPPF states that an exception to meeting need is if the application of policies in the NPPF related to matters such as the Area of Outstanding Natural Beauty, Green Belt, etc indicate so;
- at other places, for example at para 138, the NPPF is clear that Green Belt boundaries can be altered where there is a development need.

This plan has not set out to hit the government targets. Rather, it is by the careful and iterative process through which sites have been considered, including through their Sustainability Appraisal, that the Draft Plan has identified sufficient capacity to meet the housing need identified, through the delivery of sustainable development in accordance with the policies in the NPPF. On this basis, it would meet the expectation that the strategy seeks to meet the areas' objectively assessed need.

At the risk of labouring the point, it is through this Regulation 18 consultation that the Council will seek residents', businesses', infrastructure providers', consultees', etc comments and views as to whether the sites identified, not just in Tudeley, or Capel, or Paddock Wood, but across the relevant parts of the Borough, meet these policies.

There will no doubt be residents who don't think they meet these policies. There will also be developers of other sites which are not proposed to be allocated which will suggest the same thing, and will say that their sites do meet these policies.

The Distribution Strategy

I will not be providing detailed comments on the points made in your letter regarding the distribution strategy, as these and other points are addressed through the supporting material which will be publicly available during the consultation period.

I trust the above is of assistance, and I look forward to speaking/meeting with you at some point over the coming months.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Baughen', with a stylized flourish at the end.

Steve Baughen
Head of Planning Services