



**Public Consultation on the Draft Local Plan of  
Tunbridge Wells Borough Council (“TWBC”):**

**New Evidence Base Documents and Revisions to Strategic Policies**

**Representation by Save Capel (“SC”) under  
Regulation 19 (Non-Statutory)**

FINAL VERSION

Monday, 21 October 2024

***To be read in conjunction with our evidence base - Appendix 1***

*‘Save Capel’ is an unincorporated association and the property of its members, who elect the Executive. Its purpose is to protect the parish of Capel from the threat of disproportionate development and to protect the ‘Metropolitan Green Belt’ (MGB) and ‘High Weald National Landscape’ (formerly AONB) within the parish. Save Capel has never been against sustainable development and has always said the right type of development in the right place was acceptable.*

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## 1. Introduction

- 1.1. This representation is made by the Save Capel (“SC”) Executive on behalf of SC’s members and supporters. In preparing this representation, the SC Executive has been assisted and advised by the members and supporters of SC, specialist transport and environmental consultants, as well as specialist planning Counsel.
- 1.2. This consultation includes extensive new evidence provided by the Council which is vital to the consideration of whether the revised draft Local Plan can be made sound, which is what SC has striven for throughout these last stages of the Local Plan Review.
- 1.3. However, in that regard, SC considers that this ‘late evidence’ is a further example of the Plan being made “on the hoof” and that it further confirms that the Draft Plan was demonstrably unsound at the point of submission. This is already clear given the Inspector’s initial conclusions<sup>1</sup> on the soundness of a plan that included Tudeley Village is unsustainable, and the fact that the Council has failed to conduct a sequential test in respect of development in higher risk flood zones.
- 1.4. The result of the Council’s failure to submit a sound plan is that the Local Plan Review has become mired in an extended period of examination (now three years) and this has placed huge workloads on voluntary groups, such as Save Capel, and the need for extensive fundraising from the community, to be able to properly consider and respond to high volumes of late, technical, evidence that should really have been considered and produced far, far earlier in the plan-making process.
- 1.5. Whilst appreciating that the examination is intended to investigate ways of establishing a sound development plan, there has to be a point when the provision of further evidence becomes unsustainable. It cannot be an open-ended process.
- 1.6. SC intends to continue to participate fully in any remaining stages of the Local Plan’s review and will seek to make formal representations in any future hearings during which the issues raised in this representation are discussed.
- 1.7. SC has made extensive representations to the earlier stages of the examination of the Local Plan, including at Regulation 19 and at the hearings, and is mindful to avoid wholesale repetition of its arguments.
- 1.8. This representation responds directly to the new evidence under the relevant sections below, together with setting out the reasons for our serious concerns regarding the substantial proposed changes to the two key policies:
  - Strategic Allocation at Paddock Wood and Capel (STR/SS 1)
  - The Development Strategy (STR 1)
- 1.9. A technical note provided by Motion Consultants regarding the new highways evidence forms an important part of this representation and is included as Appendix 1.
- 1.10. Our conclusions are set out under section 12.

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<sup>1</sup> ID-012

## 2. Gypsy, Travellers and Travelling Show People

- 2.1. SC notes the inclusion of “*Potential additional pitches at new site allocations*” in Table 8 of PS\_094 as part of the potential supply over the Local Plan period.
- 2.2. SC understands that this relates to the only allocation (comprising 3x pitches) in the Plan, which is located in East Capel. SC refers to our Stage 3 Matter 9 hearing statement<sup>2</sup> with regard to the suitability and availability of this site.
- 2.3. It is also evident that the 10-year supply (post-adoption) using the PPTS<sup>3</sup> definition has only a 1-2 surplus of pitches, which is therefore reliant on the delivery of the site in the South-West parcel (B) of strategic sites policy STR/SS 1.
- 2.4. In a similar situation to housing supply, the strategy for the provision of a 10-year supply is therefore questionable. Using the Ethnic Need definition the Plan fails to demonstrate a 10-year supply which is at the heart of the revised Plan.
- 2.5. In any event, the Council proposes to meet any shortfall as part of an immediate partial review of the local plan. Our comments on this partial review are set out under section 10 below.

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<sup>2</sup> [https://tunbridgewells.gov.uk/\\_data/assets/pdf\\_file/0007/474037/REP-1233098-014-Save-Capel-Hearing-Statement-Matter-9.pdf](https://tunbridgewells.gov.uk/_data/assets/pdf_file/0007/474037/REP-1233098-014-Save-Capel-Hearing-Statement-Matter-9.pdf)

<sup>3</sup> [Planning Policy for Traveller Sites \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

### 3. Education

- 3.1. Kent County Council have confirmed that the secondary education requirements for the reduced housing number would result in there being a demand for an additional 490 pupils to be accommodated in the secondary school education system locally. 490 pupils being the equivalent to 3.27 FE.

#### Statement of Common Ground between TWBC & KCC Education (PS\_097a)

- 3.2. SC would draw attention to the assumptive and changeable numbers regarding demand contained within the Statement of Common Ground (“SoCG”). The table on Page 10 PS\_097a assumes a higher figure than the 490 confirmed by KCC - some 521 would seek a place at a local non-selective school. There is then a further assumption that *“demand would possibly reduce to 339 places, as in 2021/22 35% attended a selective school”*.
- 3.3. 4.5 Page 14 *“Options were then considered by the Council as to how this 3 FE provision could be met, either through existing Secondary Schools found locally such as Mascalls Academy (by 2 or 3FE), Skinners Academy in Tunbridge Wells (1FE), Leigh Academy, Brook Street, Tonbridge (2-3 FE), Hugh Christie School, White Cottage Road, Tonbridge (1 FE), or a standalone new school.”* Apart from Mascalls and a standalone new school all were dismissed.
- 3.4. 4.7 Page 14 *“In the context of the above, it is acknowledged that Mascalls is a large non-selective secondary school, and that whilst many of its students reside in Paddock Wood, the school serves a wide geographic area into more rural parts of Tunbridge Wells Borough, such as Cranbrook and Southern parts of Maidstone Borough, including Staplehurst. These rural settlements were served by a non-selective secondary school in Cranbrook called High Weald Academy, which was closed in August 2022 by Leigh Academies Trust with mutual agreement of the Secretary of State for Education.”*
- 3.5. It must not be forgotten that Mascalls Academy is also the nearest non-selective school for many pupils in rural Tonbridge and Malling BC villages such as East Peckham and has a large catchment from the nearest villages to Paddock Wood such as Five Oak Green, Brenchley and Matfield to name a few.
- 3.6. SC acknowledges the Council’s view that the emerging Tonbridge & Malling Local Plan probably prohibits using existing schools in Tonbridge<sup>4</sup> and traffic and transport issues excludes Skinners Academy from providing the excess capacity needed. However, SC reiterates our position that the Council should reassess the location of additional secondary school provision and determine options for a more sustainable location that is more central to the Borough’s needs.
- 3.7. The SoCG appears to have still settled on the 2 options of either safeguarding an area of land in the NW parcel for a new school (within a flood risk area) or the expansion of Mascalls Academy, which appears to be the preferred option. 4.16 Page 16 *“It was on the basis of the findings of EHP Consultants Education Impact & Mitigation Assessment undertaken for Redrow and Persimmon in association with their application for the land east of Paddock Wood, and the conclusions of the Local Plan Development Strategy Topic Paper that following discussions with Crest; Crest, Persimmon, and Redrow jointly appointed IDP to conduct a Feasibility Study to determine whether an expansion of Mascalls Academy to become an 11FE school could be achieved on its existing site without the need for additional land”*.
- 3.8. At present Mascalls Academy has a PAN (Published Admission Number) of 270, which is a 9FE. The PAN is the very maximum pupil number that a school can admit.
- 3.9. 4.12 Page 15 *“As occupations on the PWEC sites are not predicted to start until the academic year 26/27, it has been agreed between TWBC and the developers, that the baseline for the assessment of the school’s expansion capacity is that of an 8FE school and that a 3FE expansion would take it to 11FE. The*

<sup>4</sup> PS\_097a [4.6] Page 14 *“...as the capacity for secondary places in Tonbridge is likely to be used up by future growth proposed within TMBC emerging LP”*

*manner in which this could be achieved is set out in section 5, KCC having agreed to the feasibility of the 3 FE expansion”.*

- 3.10. It has subsequently been confirmed by Leigh Academies Trust (LAT) who run the school that they intend to decrease the PAN from September 2026 to 240, which is what the school’s PAN was prior to September 2022. 4.9 Page 15 *“Subject to the consultation process being undertaken and agreement being given to the reduction in the PAN to 8FE, the Trust and TWBC foresee a PAN of 240 (8FE) as the baseline position prior to the necessary expansion of the school by 3FE to accommodate the proposed growth in Paddock Wood”.*
- 3.11. Although a reduction in the PAN can help ensure a better match between places and demand which in turn can help protect a school’s financial viability, SC queries why, given the level of new housing already in progress in Paddock Wood and the wider catchment area, the admission number is potentially due to be reduced? Page 9 3.1B also indicates continuous expansion: *“It is also evident that a temporary expansion of Mascalls Academy was in place and the permanent expansion of Mascalls Academy is already being considered”.*
- 3.12. SC is concerned by the following statement that should the Schools Adjudicator refuse the application 4.11 PS\_097 *“The County Council may need to consider increasing capacity in another school within the wider area if the reduction in the school’s PAN is made and data indicates the reduced 1FE is needed elsewhere”.* Increasing capacity at another school in the area has already been ruled out either due to capacity or transport issues as SC has already highlighted in para 3.3.
- 3.13. Reducing a PAN is also subject to a 6-week public consultation. This further increases the likelihood that parents and stakeholders object and as a result the PAN remains the same. *“7.1 The parties are aware of local concerns about the capacity of the local educational facilities and whilst it is a shared position between the parties **that none of these concerns are sound, or make the proposed expansion of Paddock Wood unsustainable**, the parties will look to work with those stakeholders and ensure the development seeks to address the concerns of the existing communities.”*
- 3.14. Where is the evidence that these concerns are **not** well-founded when it is acknowledged that the expansion of Mascalls to nearly 2000 pupils would result in one of the largest schools in the country? What challenges or indeed benefits are inherent in such an institution - Pastoral care, discipline, management issues, anonymity versus improved facilities? Where is the evidence that with such an expansion, whilst in progress, the disruption would not be seriously detrimental to student outcomes?

### Atkins Realis Mascalls Academy Feasibility Study Review (PS\_096)

- 3.15. 6.1 PS\_097a *“TWBC instructed Atkins Realis to undertake a technical review of IDP’s Feasibility Study against the requirements of the Department for Education Building Bulletin 103. A copy of said technical review is enclosed at appendix 4. This confirms that the site has the potential to accommodate 1,980 pupils. Whilst certain issues are identified as needed further clarity it is acknowledged that these are all matters that would be expected to be addressed at stage 2, not at stage 1 and that no ‘High Risk’ issues that would suggest the Feasibility Study was non-compliant with DfE Requirements/ that any significant design issues had been identified”.*
- 3.16. Whilst not identifying any potential high risk factors within the Feasibility Study there do appear to be issues that need to be addressed should the project be taken forward.
- 3.17. These include:
- i. The deficit in WC provision and additional provision required across the site. Pupil toilets numbers appear to currently be in deficit and **may not be feasible to correct entirely**. However, the increase should be at least 1:20 of the occupancy of rooms created. i.e. 6 pupil toilets (SC emphasis).

- ii. A shortfall in soft outdoor PE for each expansion option. The current proposal is to mitigate this shortfall with the installation of a new 400m polymeric running track and second All Weather Pitch located in the centre of the track. This does mitigate the loss but does create other challenges such as:
  - iii. **Loss of existing grass provision to be used for other sports (i.e. cricket, rugby etc).** *(SC emphasis)*
  - iv. Potential use of the facility by the community and how this will be managed.
  - v. Site security and access strategy when used by the community.
  - vi. Cost and management implications.
  - vii. Ecological implications including Biodiversity Net Gain (“BNG”). 10% increase in BNG has not been referenced.
  - viii. Reaching agreement with Sport England as part of a wider Paddock Wood sporting strategy<sup>5</sup>.
- 3.18. The lack of input from/discussion with Sport England is of concern. The purpose of engaging with Sport England is to enable it to help shape local planning policy and to ensure that sports-related development plan documents are positive towards sport and physical activity and are based on robust and up-to-date assessments of need and looking to meet need where it arises. This is clearly not what has happened here. The loss of rugby and cricket facilities do the opposite of enriching the curriculum and is really not acceptable. Does Paddock Wood really need another running track when there exists one next door?
- 3.19. The report recognises the need for additional parking with the proposals demonstrating new car parking provision. **However, the new parking is accessed via an existing maintenance junction off Mascalls Court Road. This current access has limited site visibility lines and is on a relatively sharp bend with limited opportunities for improvement. This proposal as shown on the plans needs expert design advice from a transport / highways consultant to verify its feasibility.** *(SC emphasis)*
- 3.20. There has been no discussion of cycle parking increase within the report. This should be considered alongside a wider Paddock Wood cycling strategy.
- 3.21. Currently the report does not go into detail regarding any site level implications.
- 3.22. There are several trees on site which are shown as requiring removal. Currently there is no reference to a tree survey or arboricultural assessment.
- 3.23. Large areas of the southern part of the site appear to be meadow land which typically can have high habitat value. It is noted in the report that an ecologist should be consulted which is highly recommended to ensure any proposals fully consider ecological implications.
- 3.24. The site has varied topography with multiple level changes. There has been limited discussion in respect of site levels and their implications. The commissioning of a topographical survey is critical to understand the feasibility of the options. The level changes will need to be factored into the design to provide compliance with building control and meet BS8300 design requirements. **Furthermore, the levels may have a significant impact on where the building is located and how access is achieved. These will impact on the construction cost of the scheme.** *(SC emphasis)*

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<sup>5</sup> See page 27 of PS\_096, in which Atkins Realis confirms they have seen no correspondence on this issue, so presumably no such discussions have taken place, and no such correspondence exists. SC assumes there is no agreement, or an agreement is missing in the provided documents, between SE and TWBC



- 3.25. Based on the information provided in the IDP feasibility study, Atkins Realis considered that the site has the potential to accommodate a 3FE expansion. The matters raised (subject to the information provided) are considered to be issues which can be resolved as the scheme progresses through relevant design stages.
- 3.26. SC acknowledges that both the Feasibility Report and subsequent peer review are both high level but would contend that some issues raised at this high level will be extremely problematic when considered in more detail.

### Impact on state schools from potential migration of pupils from the private sector

- 3.27. The Independent Schools Council (“ISC”) predicts a 2.46% fall in pupil roll based on data from 1,082 private schools through a survey conducted in September 2024. When extrapolated from the 556,551 pupils at the 1,411 ISC schools it suggests that **13,690 pupils could have left their private schools in January** due to the addition of VAT on fees.
- 3.28. SC accepts that not all would seek a state school place, some moving to faith or grammar schools or less expensive private schools, but the suggestion is that the Institute for Fiscal Studies prediction of 3.7% leaving the sector is significantly under-estimated. The key Y7 intake is already showing a 4.6% drop in numbers after years of continuous growth in the independent sector. The decline first emerged in January 2024 when the ISC Census showed new entrants down 2.7% coinciding with parental awareness of the possibility of VAT on fees.
- 3.29. SC queries why the SoCG makes no mention and fails to consider this potential influx of pupils into the state system. KCC are rightly concerned (Kent has the third highest number of private schools in the UK) and are quoted as saying that state schools are “already full to capacity” in an iNews article (4/10/2024) about this exodus<sup>6</sup>.

### Safeguarded site for a new stand-alone school

- 3.30. TWBC has safeguarded some 7ha of land in the NW parcel for a standalone new school which shall be delivered in the event that the Mascalls expansion scheme is not deliverable. SC refers to Policy STR/SS 1 (A) which requires “*the safeguarding of land for 4FE secondary school that has land available to expand to 6FE should it be required*”. This is our preferred option as it would provide for longer term needs from the wider catchment area.
- 3.31. PS\_097a SoCG Page 16 4.14 “*As set out in the Local Plan Development Strategy Topic Paper, the Masterplanning of the PWEC site in relation to the additional flood risk modelling has been undertaken and this sets out how a standalone school could be accommodated within the development of the NW parcel*” (PS\_046: ‘Paddock Wood Strategic Sites Addendum’ paragraphs 3.2 – 3.14):
- 3.11 states “*A further supporting study has tested Option 2 (NW parcel, SC italics), to determine whether the space requirements for secondary school buildings can be accommodated within the modelled Flood Zone 1. This has taken site ground area requirements set out in the DfE’s BB103 guidance documents for a 6FE secondary school and tested whether this can be accommodated within Flood Zone 1 on the suggested site in the northwest*”.
  - 3.12 states “*The initial feasibility study indicates that the site would need minor remodelling to raise some land out of the modelled Flood Zone 2 (plus uplift). However, it is possible that with detailed design and configuration this may not be necessary. Detailed site design and modelling would be required in all instances*”.

<sup>6</sup> Facts & figures in this section obtained from iNews 4/10/2024



- 3.13 states “An alternative layout could place the buildings both primary and secondary schools to the west of the stream, and playing fields for both schools on the flood zone 2 land to the east. This could avoid the need to remodel any land, but would require a bridge link between the main school buildings and their playing areas over the Paddock Wood stream that runs south to north”.
- 3.32. SC is concerned that more detailed feasibility and viability studies of this safeguarded site do not appear to have been taken forward and appear to be at a very rudimentary stage should the expansion of Mascalls Academy not be possible. There appear to be significant challenges with this site too; SC suggests that raising land out of Flood Zone 2 is not “minor remodelling”.
- 3.33. There appears to be no explanation as to the future of this site should it not be used for educational purposes.

## Conclusion

- 3.34. The proposals contained within the Feasibility Study focus on providing the required BB103 areas, that is that the school fits into the area available. The conclusion is that as it stands the Mascalls site can accommodate expansion as necessary.
- 3.35. The issues raised above cast some serious doubts as to the suitability of the site and the actual viability and cost involved. The quality of provision and facilities has to be questioned.
- 3.36. As stated previously the feasibility study of the expansion of Mascalls Academy highlights some potentially significant challenges ranging from a deficit in toilet provision which may not be feasible to correct entirely, topography adding to build and cost issues, access and parking, transport issues and the size of the school should the Schools Adjudicator refuse the reduction of the PAN.
- 3.37. SC has little confidence in the Statement of Common Ground given that there appears to be such contradictory conclusions within it regarding the feasibility study of Mascalls Academy. Has it or has it not been demonstrated that Mascalls Academy can be expanded?
- 3.38. PS\_097a SoCG Page 25 8.1 “..... it has been agreed between the parties that the Feasibility Study **has demonstrated** that there is capacity at Mascalls Academy to expand.”
- 3.39. PS\_097a SoCG 8.3 “..... (c) the expansion of Mascalls Academy Secondary School by 3FE, **unless it is demonstrated that such an expansion is not possible**. In that case, secondary school provision equivalent to 3 Forms of Entry (3FE) will be provided within the North-Western development parcel”. (SC emphasis).
- 3.40. Should the Mascalls site not prove feasible there remains insufficient detailed evidence to support the fall back options.
- 3.41. The impact on Mascalls school and other state schools in the area, referred to in paras 3.27 – 3.29 above, is as yet uncertain, but may be significant. This material risk to education planning needs to be factored into the consideration of the overall LP – together with the consequential increases in daily traffic movements and other infrastructure considerations that could arise.
- 3.42. SC reiterates once more that the Council reassesses both the Borough’s secondary educational needs and those of Paddock Wood and Capel.

## 4. Flooding and Flood Risk (PS\_098)

- 4.1. SC welcomes the production of this document, which effectively serves as a history lesson in how not to prepare a development plan.
- 4.2. Proper consideration of flood risk is not just about sustainability, or the important amenity concerns of local residents. The impact of flooding has a very real, tangible and devastating effect on people's lives. It can make habitation of dwellings untenable not least because they are uninsurable. It can result in significant physical harm to residents and in cases lead to deaths.
- 4.3. SC highlighted this five years ago when responding at the Regulation 18 stage<sup>7</sup>, saying "*In this final week of the consultation period we have seen the tragic death of the former High Sheriff of Derbyshire after being caught in floodwater. In Doncaster, 1200 properties were evacuated and 1900 people had to be rescued. This adds to an extensive list of major flood incidents, including the Dam breach and bridge collapse earlier this year, which are now occurring ever more frequently. Planners should take careful regard of these warnings*".
- 4.4. However, it is abundantly clear that the Council did not conduct a Sequential Test when preparing its draft Local Plan. The inclusion of significant housing development in high risk flood zones bears testament to that. Had it done so, and done so earlier, the proper consideration of alternative spatial strategies may have delivered a Plan that had a greater chance of being found to be sound in respect of this issue.
- 4.5. At that stage, the Strategic Flood Risk Assessment ("SFRA") proposed strategic storage to mitigate the effects of flooding on the development area around what is now known as South-Western Parcel under Policy SS 1(B) as shown below:

**Strategic Storage:** The potential strategic storage parcels considered as part of the SFRA are positioned upstream of Parcel 1 on land within Capel Parish (see Figure 11) on Tudeley Brook - in order to reduce peak flow of flood events by reducing flood depths within Paddock Wood.

Location 1 provides most opportunity for meeting the storage volume requirements (max storage 680,000m<sup>3</sup>). However, the area identified and maximum storage level/volumes would mean that development would not be possible at the Parcel 1 site and the PW1 plan would not be deliverable.

Location 2 (max 130,000m<sup>3</sup>) provides slightly greater other potential for flood storage and therefore reduction in flows. It is also further downstream so would capture greater volumes of run-off compared with location 3.

At location 3 (max 90,000m<sup>3</sup>), it is identified that greater storage volumes may be possible if the maximum storage could be increased.

It was agreed with the council that locations 2 and 3 should be considered in combination for model testing as part of the SFRA. However, there remains a localised increase in flood risk at the southern end of the parcel 1 due to reflection of flood water.

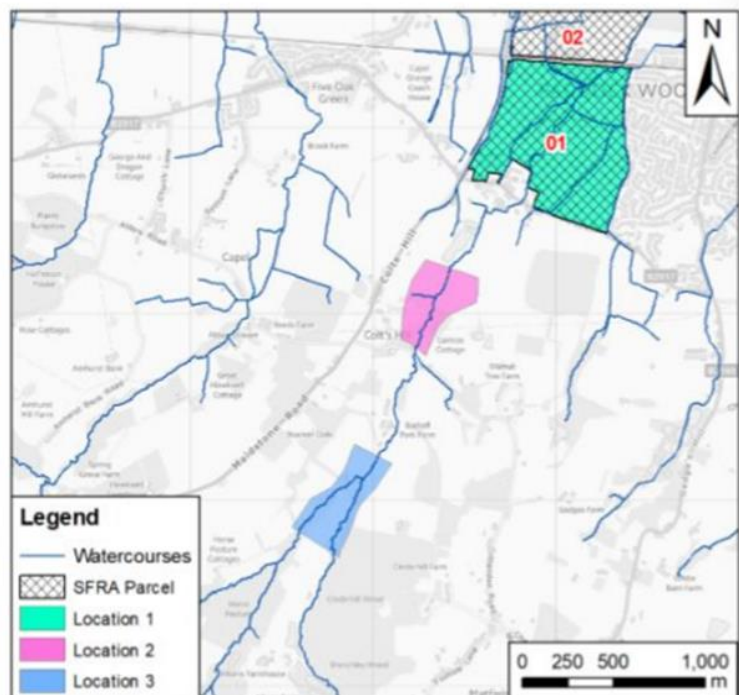


Figure 11 - PW Strategic Storage Sites

<sup>7</sup> Save Capel Reg19 (2021) Submission Appendix 13 [para 17.7] [flood-risk-report-regulation-18.pdf](https://www.savecapel.com/flood-risk-report-regulation-18.pdf) (savecapel.com)

- 4.6. This strategy was not taken forward in the submitted version of the Plan, which continued to include development in the higher risk flood zones. Again, the Council had still not conducted a Sequential Test, to direct development away from these areas, as evidenced by the inclusion of only approximately 30 allocations out of around 450 submitted sites in the SHELAA.
- 4.7. Furthermore, the Council had not conducted the required Exception Test to demonstrate why the omission sites, or indeed other strategic opportunities, should not be re-considered.
- 4.8. What resulted was a demonstrably unsound Plan at the point of submission, and here we are three years later with the examination still running.
- 4.9. SC considers that the Council's approach to flood risk has been woeful despite the assertion<sup>8</sup> *"The council has followed the government's policy and guidance in how it has prepared its local plan throughout, by imbedding these principles into the evidence base from an early stage"*.
- 4.10. SC acknowledges that the revised plan now restricts housing development to areas of FZ1 in East Capel but highlights that these areas will reduce in size over time due to climate change. However, Policy STR/SS 1 does not require this restriction and there is only the vague requirement<sup>9</sup> of *"ensure that surface water runoff from the development will not exacerbate and so far, as possible and practicable improve flooding elsewhere"*.
- 4.11. SC is also concerned that the strategic policy STR 1 does not include any reference to flood risk, which also confirms the Council's lack of emphasis on this important area of policy.
- 4.12. Furthermore, there is now only very limited mitigation proposed in the revised policies<sup>10</sup>:
- For parcel (A) we have *"a Wetland Park within and to the north of the North-Western parcel to deliver flood water attenuation and new habitat, allowing for informal recreation via a network of footpaths and boardwalks"* which is an area that historically acts as a flood plain anyway and provides no further mitigation to existing properties.
  - For parcel (B) we have *"provision of flood attenuation features to enable the delivery of flood betterment to the northwestern area of the existing settlement"*. This policy is modest at best when compared with that proposed in the SFRA.
- 4.13. The storage explained above (para 4.5) would have greatly reduced the flows down Tudeley Brook and mitigate the frequent flooding events that cause so much disruption along the B2017 from the roundabout with the A228. This area is hugely significant to the increasing traffic flows from existing developments and those now proposed. The mitigation proposed within the site will have no effect.
- 4.14. In summary, by the Council's own admission<sup>11</sup> *"...following on from receipt of the Initial Findings, the council's response has been to remove all inappropriate development from FZ2"* where clearly the Submitted Plan included 'inappropriate development'.
- 4.15. What has resulted is the proposed development of poorly connected "islands" of housing with consequently significant drainage measures being required. This greatly affects the deliverability, including timescales, and creates huge risks with regards to viability and implementation. SC explains this further under the sections below and in particular section 9 regarding STR/SS 1 policy.

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<sup>8</sup> Flooding and Flood Risk (PS\_098) at para 4.3

<sup>9</sup> PS\_095 at para 3(h)

<sup>10</sup> PS\_095 Development Parcel Principle Uses and Development

<sup>11</sup> Flooding and Flood Risk (PS\_098) at para 4.4

## 5. Highways, including Modelling and Mitigation

- 5.1. This section deals with the late transport evidence provided by the Council just before the Stage 3 hearings which participants had not been given time to consider. Accordingly, the Inspector directed the Council to conduct the public consultation on this together with other evidence requested.
- 5.2. SC sets out our response to each of these highway related documents below. Our Transport Consultants (“Motion”) have provided a technical note on this evidence which is included as Appendix 1. Those considering this representation should take the time, and care, to read that note fully.

### Modal Shift Analysis Technical Note (April 2024) (PS\_100)

- 5.3. The majority of the Highways and Transport evidence relies on the claim by TWBC of a 10% modal shift away from the use of cars to more sustainable options including buses, rail and cycling. Motion believes that TWBC has never provided any evidence to support the claim of a 10% shift. Failure to do so means that the inputs to other Transport evidence inevitably results in outputs that cannot be relied upon.
- 5.4. SC considers that, as a result, the 10% modal shift is not deliverable. The key reasons for this include:
  - i. Table 1 on page 12/19 demonstrates that travelling by car is twice as fast as any other form of transport<sup>12</sup>
  - ii. No direct cycle route is proposed between Paddock Wood and Tonbridge, cyclists must therefore rely on travelling along the narrow B2017. This in itself has significant safety concerns and casts traffic modelling in doubt as an increase in cycling will further slow buses and cars as there are few, if any, safe passing places.
  - iii. The proposed cycle route from Paddock Wood to Tunbridge Wells (Figure 3, page 18/19) includes a long stretch along the already busy A228.
  - iv. There are no new bus services proposed directly connecting Paddock Wood and Tonbridge.
  - v. On page 5/19 TWBC proposes that the PW Orbital Bus service would operate between 07.00 and 19.00 – what about the evenings?<sup>13</sup>
  - vi. Other references on page 7/19 to “Bus Rapid Transport” and 8/19 to “turn up and go” services are misleading and do not fit the criteria for the types of service<sup>14</sup>.
- 5.5. This leads to a much better cycle and public transport being proposed than is capable of being delivered. Table 6 sets out TWBC’s own conclusions that for Paddock Wood the High scenario is set at a 9% reduction, the Medium scenario is set at 6%, and the Low scenario at 4%. Even under the most optimistic scenario the modal shift will not be the claimed 10%. Therefore, the evidence submitted to the EIP is wrong<sup>15</sup>.

### Pembury Road Corridor – Junction Capacity Assessment (June 2024) (PS\_101)

- 5.6. It is entirely unsatisfactory that this is the first time we have seen any evidence about the required mitigation along the Pembury Road Corridor (“PRC”), particularly given that Tudeley Village was included five years ago. It is therefore entirely clear that the submitted Plan was unsound as a result.

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<sup>12</sup> See Appendix 1 at 2.4

<sup>13</sup> See Appendix 1 at 2.6(a)

<sup>14</sup> See Appendix 1 at 2.6(b) and 2.6c

<sup>15</sup> See Appendix 1 at 2.8 and 2.9

- 5.7. The five major junctions identified for mitigation on the PRC are:
- i. Woodgate Corner (A228/Tonbridge Road/Pembury High Street)<sup>16</sup>
  - ii. A21 East Dumbbell Roundabout<sup>17</sup>
  - iii. A21 West Dumbbell Roundabout<sup>18</sup>
  - iv. Halls Hole Road Junction<sup>19</sup>
  - v. Sandhurst Road Junction<sup>20</sup>
- 5.8. Motion's Technical Note (Appendix 1) details issues with each of junctions (5.7i, 5.7iv, and 5.7v) above concerning the space required for the proposed mitigations, the topography of the space around the junctions, and the ownership of the land required for delivery of the mitigations.
- 5.9. Additionally, for the two A21 Dumbbell Roundabouts there are other issues included in this document:
- A21 East Roundabout, 5.7 ii - whilst according to the modelling, this junction is forecast to operate within capacity, it seems that TWBC have relied on the proposed mitigation of the Woodgate Corner junction being deliverable (in spite of the issues Motion have raised) and have not considered the potential blocking effect if it isn't deliverable.
  - A21 West Roundabout, 5.7 iii- this junction is forecast to operate beyond capacity in all scenarios. The design sketch is of poor quality and does not meet requirements of the Design Manual for Roads and Bridges (DMRB) which are mandatory as this junction connects to the strategic road network. Were this design taken forward the outcome would be an unacceptable impact on road safety.
- 5.10. There are therefore design and potential safety issues with all the proposed mitigations for the PRC.

### Junction Hotspot Comparison (June 2024) (PS\_102)

- 5.11. The tables in the Hotspots Comparison are wholly reliant on:
- The modal shift being realistic
  - The PRC mitigation being demonstrated to be deliverable
  - A change in Volume over Capacity (V/C) to trigger the need for mitigation (see next section).
- 5.12. As set out above, neither the first nor second bullet points can be relied on. In the next section (para 5.17) we deal with the V/C point.
- 5.13. As Tudeley Village has been removed from this version of the Plan, SC has serious concerns that junctions 8 and 88 remain in the Hotspots Comparison list despite the reduced housing growth and mitigations proposed.
- 5.14. SC refers to its previous submissions on the other hotspot comparisons in this document. At the Stage 3 Hearings the Inspector requested a simple plan that shows the changes in traffic flows between the Submission Local Plan and the growth now proposed. This isn't what has been delivered.

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<sup>16</sup> See Appendix 1 at 3.5 to 3.11

<sup>17</sup> See Appendix 1 at 3.12

<sup>18</sup> See Appendix 1 at 3.13 to 3.19

<sup>19</sup> See Appendix 1 at 3.20 to 3.22

<sup>20</sup> See Appendix 1 at 3.23 to 3.25



## Strategic Transport Assessment Addendum (June 2024) (PS\_104)

- 5.15. Motion made oral comments on this document at the Stage 3 Hearings in July as it had been submitted too late in the process for us to analyse or provide a written submission in response.
- 5.16. This document tests the A264 Pembury Road Corridor prepared for TWBC by Stantec. In our submissions we say that this is simply not deliverable and so the Addendum's starting point is falsely based. We made this point orally in July, and will again, if needed at any further hearing.
- 5.17. Table 2 is a replication of what has already been submitted in PS\_103 April 2024. We have previously noted to the Inspector that the criteria used to determine hotspots are wrong in that TWBC asserts that infrastructure isn't needed until a V/C ratio is greater than 5 percentile points. This is flawed logic because it fails to take into consideration existing road conditions
- 5.18. NPPF 115 refers to the "residual cumulative impacts", not the impact of a single development in isolation. The table shows that in 2024 the Badsell roundabout is already failing in terms of capacity, yet the submission claims that improvements are not needed until at least 2031.

## Conclusion

- 5.19. The pattern thus far in the EIP proceedings has been one of TWBC providing incomplete information, often very late in the run-up to Hearings, and then when asked for more evidence whatever is provided falls short of what is needed to justify the claims and assumptions made in this version of the Plan.
- 5.20. SC believes that asking for yet more evidence again in the matters of Highways and Transport will not yield anything that would change our view that the evidence provided to date cannot be relied upon. Put simply, any further evidence that could/would be provided would only re-enforce concerns that this is work that should have been undertaken earlier and is being used to try and "shore up" the plan. However, it is failing, miserably, to do so and just highlighting (as can be seen about and in Appendix 1) significant problems in this area of the Local Plan.

## 6. Infrastructure Delivery Plan (PS\_105)

- 6.1. With the removal of Tudeley Village, the success of the Local Plan now squarely relies on the delivery of its one remaining strategic site at Paddock Wood & East Capel (“STR/SS1” or “PWEC”) which is expected to make a substantial contribution to both housing and employment growth for the borough.
- 6.2. The provision of timely and adequately funded infrastructure for this site is thus critical – both for the delivery and sustainable development of PWEC itself as well as for the success of the Plan overall.
- 6.3. SC recognises and supports that the borough-wide Infrastructure Delivery Plan 2024 (“IDP”) is heavily focused on the infrastructure requirements to support growth at the PWEC site. Nevertheless, the IDP remains high level and has a number of major gaps – especially on costs and timing – resulting in considerable risk that development at PWEC may not be adequately supported by the required infrastructure.

### Cost estimate and funding uncertainty

- 6.4. The Infrastructure Delivery Schedule in Appendix 1 lists cost estimates and intended sources of funding for most infrastructure projects. These total over £130 million of costs for PWEC-dedicated projects alone. It should be noted that cost estimates are top-down and “indicative” only without any underlying detail or assumptions. Meanwhile, in many cases figures are stated ‘to the pound’ giving a misleading impression of accuracy. Similarly, for the vast majority of projects there is no evidence that any of the funding has actually been secured - it is merely an indication of intent. This leaves uncertainty about the total financial burden and casts doubt on the economic viability of the plan.
- 6.5. These ambiguities are prevalent in many of the larger infrastructure categories:
  - **Flood risk mitigation:** One of the most critical components for PWEC is flood risk management due to the area's vulnerability to flooding. The IDP outlines plans for floodwater storage areas, Sustainable Drainage Systems (“SuDS”), and embankments. Funding for this is not secured and anticipated sources are spread across “*developer funding (IL/S106), housing Growth Fund/KCC/EA*”. Without clear funding, it is difficult to ensure that adequate funds will be available, especially since the area cannot be developed without robust flood mitigation.
  - **New schools:** The construction of two new primary schools and the potential expansion of Mascalls Academy (or a new secondary school) is essential to meet the educational needs of the growing population. Yet, the cost estimates for these schools – while huge (>£35 million) – are only approximations, and there is no firm commitment on who will fund these projects beyond Section 106 agreements. Given the critical nature of these facilities, delays or underfunding could lead to overcrowded schools or insufficient education provision.
  - **Transportation:** Critical road projects such as the Colts Hill Bypass and upgrades to the A264 Pembury Road are costed at high level but with no supporting detail and funding is all reliant on Section 106 funding. This makes it difficult to assess whether sufficient funds can be raised and allocated within appropriate timeframes.
- 6.6. The absence of confirmed bottom-up costs and the lack of secured financing risk delays in infrastructure provision and calls the Plan’s economic viability into question. For instance, if flood measures are delayed due to funding issues, housing development may be stalled entirely, putting the entire growth strategy at risk.



### **Over-reliance on developer contributions**

- 6.7. The IDP relies heavily on developer contributions to fund nearly all of the required infrastructure. While this is a common approach, it introduces significant uncertainty and risk, especially if the pace of development slows, if contributions are insufficient, or if a developer is able to demonstrate that what is required from them renders the development unviable – and asks the local planning authority to remove/reduce those contributions.
- 6.8. Again, this pertains to all infrastructure categories. Some examples:
- **Health Facilities:** The IDP proposes a new health centre in Paddock Wood contingent on developer funding. Any delays in securing contributions could result in inadequate healthcare provision for a growing population.
  - **New schools:** The funding of > £35 million for new educational facilities (see para 6.5 above) is expected to come from developer contributions. However, if housing delivery is delayed or falls short of targets, these schools may not be delivered in time to accommodate new residents, leading to potential overcrowding.
- 6.9. The overreliance on developer contributions creates a direct dependency between housing development timelines and the delivery of critical infrastructure. If the housing market slows or planning applications are delayed, the delivery of schools, health facilities and road improvements will be significantly impacted.
- 6.10. Significantly, the IDP does not provide any contingency plan if developer contributions fall short, which could lead to underfunding of essential infrastructure. This is an obvious shortcoming at the heart of the IDP and indeed the overall soundness of the Local Plan.

### **Unclear phasing & delayed infrastructure delivery**

- 6.11. In terms of delivery timings, the IDP groups all infrastructure projects into 3 very broad categories ("*short term*" = less than 5 years, "*medium term*" = 5-10 years or "*long term*" = more than 10 years). Beyond this, the IDP lacks any specificity or further detail on phasing or dependencies.
- 6.12. In fact, the only reference to phasing can be found in the 'Revised policy wording for STR/SS 1' (P.8/9 para 16) which "*indicatively*" associates a set of infrastructure projects with 3 housing number triggers (540, 1,650 and 2,450 houses). This is too high level to be of any practical use in planning delivery.
- 6.13. In essence, there is NO phased infrastructure delivery plan... and much less an assessment of interdependencies or the risk / impact of delayed infrastructure delivery.
- 6.14. As a result, the required infrastructure is at risk of not being delivered in line with the pace of housing development, leading to a mismatch between growth and infrastructure provision. A few examples:
- **Flood Mitigation:** The IDP identifies that flood mitigation measures must be implemented before or alongside housing development to ensure that PWEC can safely accommodate new residents. However, there is no clear phasing schedule indicating when these flood measures will be completed relative to the housing developments. Any delays in flood infrastructure would prevent housing construction from proceeding.
  - **Road Infrastructure:** Similarly, road improvements, including the Colts Hill bypass and junction upgrades, are marked as critical infrastructure. However, these projects are scheduled over the medium term (5–10 years), and the lack of specific milestones makes it unclear whether the road network will be able to cope with increased traffic as housing is delivered . The Economic Viability Assessment (Appendix I, Table 1B) provides dates for some of these (Colts Hill – 2031; Five Oak Green Traffic Mgmt – 2035). If accurate, this is much too late.

- **Healthcare facility:** Again, per the Economic Viability Assessment this facility is scheduled for 2035 which is much too late given that the existing Woodlands health centre in Paddock Wood is completely overloaded with several weeks waiting time for an appointment and ‘visits’ increasingly taking the form of phone calls or even texts. The only way to get short term medical assistance is to visit A&E at Pembury Hospital, which is increasingly overburdened by visitors with minor, no-urgent ailments as there is no GP availability. Further housing development without access to additional community healthcare will only exacerbate this situation.
- 6.15. Delays in infrastructure delivery could lead to significant issues for both new and existing residents. The timing gap between infrastructure provision and housing delivery creates uncertainty for developers and potential buyers, which could dampen market interest and slow down development.
- 6.16. We understand that *“the timing of delivery of infrastructure schemes is dependent upon a number of key factors...”* and *“...will inevitably change over the course of the Local Plan period”* (p.13/14 para 2.36/37). However – given the critical role of supporting infrastructure for PWEC – surely the right answer is to have a comprehensive, integrated delivery plan and to keep this updated over time. As opposed to using complexity as a fig leaf and effectively having no plan at all.

## Delivery Risk

- 6.17. The IDP provides an assessment of the delivery risk for each project. Despite the scale and complexity of many of the infrastructure projects proposed, not a single PWEC-related project is assessed as ‘high risk’! Given the manifold issues mentioned above – including land availability, funding uncertainties, technical modelling/planning complexities or regulatory approval challenges – this seems remarkable! Given the ‘bumpy’ progress of the TWBC planning process to date, this over-confidence feels ‘heroic’ and misplaced. Unfortunately, SC believes that TWBC is underestimating the complexities of delivery which is likely to result in underperformance (and raises the potential of non-delivery) and further delay.
- 6.18. To call out some of the more complex projects that SC believes fall into the higher risk category and will cause major impact if delayed:
- **Transport infrastructure:** The Colts Hill bypass is critical to unlock the PWEC site and to facilitate traffic flow between Paddock Wood, Tunbridge Wells and surrounding areas. However, it faces high delivery risks due to uncertainties around funding, land acquisition, and environmental assessments. Also, timing for completion remains vague and poorly aligned with housing development schedules. Any delay will lead to severe traffic congestion, making the development less accessible.
  - **Flood mitigation:** The IDP identifies the need for raised platforms, floodwater storage areas and targeted flood embankments. These projects carry a high level of risk due to the complexity of flood modelling (e.g. the effective management of fluvial and surface water flooding; incomplete flood risk assessment data) and the evolving impact of climate change. If mitigation measures are not delivered in line with housing construction, there could be significant flood damage to newly built homes and infrastructure. This could also impact insurance premiums and property values.
  - **Wastewater Treatment and Water Supply:** Growing development at PWEC will increase pressure on existing wastewater treatment facilities. The IDP identifies the need for upgrades to the local sewage network and additional water infrastructure. SC considers this to be ‘high risk’ due to the complexity and cost of such projects. Any delay in securing land or funding for these upgrades could halt development.

## Gaps and inconsistencies

- 6.19. Beyond the major flaws highlighted above, SC would also like to include a few other gaps and inconsistencies for completeness:
- 6.20. The IDP repeatedly refers to the “*Paddock Wood Infrastructure Framework 2024*” as containing more detail on relevant infrastructure projects. We cannot find any such document in the evidence base. Is this titled differently or missing? Given the dearth of detail on phasing and dependencies in the IDP, SC would have much appreciated this documentation if available.
- 6.21. The appendix lists the ‘*Closure of Hartlake Road to through traffic*’ as a project and allocates £500k to its delivery. SC is unclear why this measure remains in the Plan.
- 6.22. Next, the Plan also proposes the ‘*...widening of Hartlake Road at the intersection with B2016*’, where it is unclear how this relates to the proposed closure of Hartlake Road.
- 6.23. SC also questions why the increase in ‘bicycle racks at Tonbridge Station’ (£50k) remains in the IDP given the removal of Tudeley Village and any associated bicycle paths (which were anyway a non-starter as SC has evidenced in previous submissions). There is currently no increase in population that will look to travel toward Tonbridge Station by bicycle – nor any path to actually travel there
- 6.24. The provision of a Paddock Wood bus service is included twice in the IDP’s Appendix.

## Recommendations

- 6.25. Phasing: Infrastructure delivery schedules must be more detailed, align with or better yet anticipate the expected housing completions to avoid overburdening existing infrastructure and avoid being ‘gamed’ by developers.
- 6.26. Prioritise key infrastructure: Critical projects like the Colts Hill bypass and wastewater upgrades need earlier, secured funding and firmer timelines.
- 6.27. Clear funding strategy: Developer contributions alone may not suffice for larger, longer-term projects. The Council should actively pursue alternative funding sources (e.g., government grants, private partnerships, etc.) especially for critical, higher risk projects, to reduce reliance on developer contributions and ensure smoother delivery.
- 6.28. Risk mitigation through contingency planning: The Council needs robust contingency plans for higher risk projects, particularly around the Colts Hill bypass and flood mitigation measures.
- 6.29. Stronger monitoring and control: The IDP should include stronger monitoring mechanisms for tracking the progress of delivery (especially for higher risk projects) with regular review points and corrective adjustments to development schedules if infrastructure delivery falls behind.

## 7. Viability (PS\_106a-d)

- 7.1. At the Council's request the Dixon Searle Partnership ("DSP") has provided an update to its Infrastructure modelling for Paddock Wood and East Capel only, to account for the updates to the IDP following the Hearings in June and July 2024.
- 7.2. In PS\_106a, para 1.1.2, (Methodology and Assumptions) DSP states that, aside from infrastructure cost changes they did not need to update assumptions wholesale, because the previous Submission Local Plan ("SLP") development management policies which influence viability remain unchanged from December 2023. This allows direct comparison with previous results.
- 7.3. SC notes that (para 1.1.7), DSP's instruction was focused on the impact to viability relating to highways and health facilities.

### Cost Assumptions

- 7.4. For the reasons discussed below, SC believes that the PWEC-related cost assumptions contained in Appendix I of the Viability Assessment severely understate actual costs by £20-40 million – both due to over-optimistic assumptions as well as missing items that should have been included.
- 7.5. The contingency assumptions in Appendix I of "3-5% of build cost" seem VERY low, especially at such an early stage of the development plan. SC would have assumed that a contingency of 10%+ would be more appropriate for a development of this size and complexity. This would add around £30m incremental costs.
- 7.6. SC also notes that the costs for both contingency and professional fees have gone down between DSP 2023 and the latest update in 2024 (contingency has gone from "5%" to "3-5%"; professional fees have gone from "10%" to "8-10%"). Neither of these changes are explained so the rationale for this is unclear – given that the UK has just undergone the highest inflation environment for a generation this seems optimistic.
- 7.7. It should also be noted that there are a number of discrepancies between DSP's viability assessment and the IDP. Although the correlation of items between the documents is poor, the IDP seems to include infrastructure projects directly associated with PWEC growth that are missing in DSP's economic viability assessment. Their inclusion further degrades the economic viability of the Plan.
- 7.8. SC has identified 8 missing projects which have an estimated cost of over £6 million, with estimated cost in parentheses where identified in the IDP:
  - i. "LCWIP Phase 2 cycling & pedestrian within existing PW town and low traffic neighbourhood network within existing PW town" (£4.05M)
  - ii. "Paddock Wood East, NW, SW 3m shared cycleway/footway along internal link road" (TBC)
  - iii. "New telecoms connections" (TBC)
  - iv. "Increased capacity at A26 Woodgate Way / B2017 Tudeley Road roundabout" (£1.75M)
  - v. "Bellmouth widening at junction of B2017 and Hartlake Road" (£50k)
  - vi. "Bus network enhancements for improvements between RTW / Paddock Wood / Pembury / Tonbridge" (TBC)
  - vii. "Bus Gates at Five Oak Green and Colts Hill Village" (TBC)
  - viii. "Pembury corridor: Signalisation at Sandrock Rd Junction" (£500k)

- 7.9. The presented numeric assumptions and the commentary in Table 1: Development Cost Assumptions, is unchanged from the corresponding information presented as of December 2023.
- 7.10. Increasing contingency costs and including the missing project costs would severely impact the financial viability of the plan and essentially eliminate the feasibility of 40% affordable housing under any scenario modelled by DSP.

## Updated findings

- 7.11. DSP report (para 3.1.1) that *“the updated results are, overall, very similar to those presented in the December 2023 Viability Assessment Addendum<sup>21</sup>.”* SC notes that the residential criteria selected in Table 2 presented in Appendix 2 and illustrated by traffic light presentation (clear deficit = red / clear surplus = green / marginal either side on 0 = orange) shows a similar result to December 2023, though it is also clear that surpluses in all classes of data are reduced, and many deficits are increased. What is considered ‘marginal’ is not defined, though SC notes that the £701k surplus over Benchmark Land Value (“BLV”) at £250k at £4,900 average value per m<sup>2</sup> has become a deficit of some £899k.
- 7.12. Para 3.1.4 contends that there has been “very little variation” in the viability results between December 2023 and August 2024 arising from the reduction in housing at PW/EC – the overall difference amounting to around £1.5m, representing around 0.2% of Gross Development Value (“GDV”).
- 7.13. SC considers the headline 0.2% negative variance in viability results and DSP’s contention as follows [para 3.1.11]: *“This Addendum update continues to show that the emerging policies can be further supported as a continued key theme for the new LP.”* is even more optimistic than they were in December 2023 for the following reasons:
- A 0.2% reduction in overall margin is nonetheless a constriction on what was already a Plan with little scope for negative variance, anticipated or unanticipated. This should be considered alongside other areas of reduced scope for negative variance and reduced buffers noted elsewhere in the submission, including the maximisation of capacity at Mascalls school, the flood risk, unclear or absent/unsecured funding plans for infrastructure and the effect of any housing market slow-down.
  - The 0.2% headline is generated from the residential housing data contained at Appendix II, which themselves are presented to the nearest £1, giving a veneer of accuracy which is absent in reality. The apparently precise presentation is at odds with DSP’s own acknowledgement of the uncertainty implicit in relying on assumptions that will vary over time (para 3.1.2).
- 7.14. Critically, the majority of deficits and at risk classifications that were already of concern in the December 2023 assessment of viability at the Council’s headline 40% affordable housing target are rendered even worse and cast greater doubt on the chances of that 40% level being achieved.
- 7.15. Specifically in PS\_106c, Appendix II (Table 2) DSP considers the feasibility of delivering 40% affordable housing under 8 different scenarios. **Only 3 out of 8 scenarios deliver a surplus!**
- 7.16. Based on their own calculations, DSP therefore appears to concede that delivery of 40% affordable housing is marginal or not feasible under a majority of the scenarios modelled. And this is at the current planning stage with all of the associated uncertainties. Given that large-scale infrastructure costs typically **increase** during delivery, in reality feasibility is likely to be even worse and the 40% affordability target unachievable.
- 7.17. This significant and disappointing finding is glossed over by DSP in para 3.1.7. where they state that *“Deficit outcomes are confined to the use of the higher sensitivity test BLV level, which is not the base*

<sup>21</sup> December 2023 Viability [Appendix II Cover \(tunbridgewells.gov.uk\)](https://www.tunbridgewells.gov.uk)

*assumption that DSP considers appropriate” [SC emphasis].* The implication seems to be that the positive (surplus) outliers are the ‘appropriate’ base assumptions. This runs counter to any meaningful sensitivity analysis. Either DSP’s statement is wrong, or its sensitivity modelling was based on poor assumptions and a waste of time (& taxpayers’ money).

- 7.18. Finally within the Updated Findings part of DSP’s paper, DSP also at para 3.1.7 hedges its bets in apparent contradiction of the numbers in their Appendix II and concludes *“40% AH continues to be shown as within the realms of viability overall...”* – which is hardly a confident prediction.

#### Notes and Limitations

- 7.19. DSP’s ‘Notes and Limitations’ is a list of caveats and cautions regarding their update report which includes the statement [para iv]: *“A degree of professional judgement is required. We are confident, however, that our assumptions are reasonable in terms of making this viability overview and further informing and supporting the Council’s approach to and proposals for a robust and viable Local Plan.”*
- 7.20. SC is concerned that the combined effect of the reduced margins around viability, together with reduced buffers as noted in para 7.13 above and Dixon Searle’s own warning over the effect of movements in assumed data over time [Viability, para v] render the Plan’s viability at considerable risk and therefore challenges the use of the adjective *“robust”*.

## Conclusions

- 7.21. SC would repeat its conclusion in its earlier Reg 19 representations that the Viability Assessment is rendered otiose due to the extent and nature of DSP’s caveats together with the high degree of probability that one of the many variables over time may cause the Local Plan’s objectives, and in particular the headline 40% affordable housing target, unachievable.
- 7.22. As explained above, the Council’s headline 40% affordable housing target that was already in deficit in most measures in the December 2023 viability assessment, are now rendered even worse and cast greater doubt on the chances of the affordable housing target being achieved.
- 7.23. SC believes that the PWEC-related cost assumptions contained in Appendix I of the Viability Assessment severely understate actual costs by £30 million (see from para 7.4 above).
- 7.24. SC has identified 8 projects >£6 million that have not been referenced in the Viability Assessment (see paras 7.7 and 7.8 above).

## 8. Housing Needs and Supply (PS\_107)

- 8.1. The Council has provided a revised housing trajectory<sup>22</sup> in its response to the matters discussed at the hearing in June. This evidence also includes the explanation of the revised housing requirement being reduced to 660 dwellings per year.
- 8.2. The table below shows the sources of supply in the revised housing trajectory and where a range of units is identified, the mid-point has been used:

<b>Source of supply</b>	<b>* Cumulative to 2030</b>	<b>* Cumulative to 2035</b>	<b>SLP period to 2038</b>
Completions (2020-2023)	1,842	1,842	1,842
Extant permissions (01-April-2023)	2,771	2,845	2,845
Windfall sites (152 pa from 2026/27)	608	1,368	1,824
RTW town centre plan (RTW2)	0	175	175
Paddock Wood/Capel (SS1)	800	2,214	2,508
Paddock Wood town centre (SS2)	0	16	16
Other allocations	1,088	1,640	1,773
<b>Total dwellings</b>	<b>7,109</b>	<b>10,100</b>	<b>10,983</b>
<b>Housing target (660 per year)</b>	<b>6,600</b>	<b>9,900</b>	<b>11,880</b>

\* Cumulative totals to 5-year and 10-year periods from anticipated adoption by Mar-2025

- 8.3. SC considers that the trajectory remains very front-loaded, and it would have been helpful if the Council had provided an updated position of actual completions in 2023/24 as part of this consultation, including a breakdown of lapsed permissions. SC has serious concerns about the reliance on extant permissions and considers there is insufficient evidence to support confidence in their delivery.
- 8.4. The Council confirms<sup>23</sup> that the revised SLP will result, taking the mid-point of dwelling ranges, in a shortfall of approximately 1,000 dwellings, equivalent to some 8.9% of overall need to the end of the plan period.
- 8.5. Consequently, the Council proposes a commitment to an 'early review' to meet the shortfall over the plan period. Our response to this draft policy is set out under section 10 below.

### Five-Year Housing Land Supply Positions

- 8.6. The Council claims that the five-year supply position post-adoption (currently anticipated to be 1 April 2025) is 5.42 years with a 5% buffer applied. This is based on the anticipated supply of **3,689 dwellings** within the first five years post-adoption.
- 8.7. Taking each of the sources of supply, SC has the following concerns as to whether this is supported by adequate evidence and if it is deliverable:

<sup>22</sup> Housing Needs and Supply (PS\_107) Appendix 1

<sup>23</sup> Housing Needs and Supply (PS\_107) Appendix 2 para 4.54



- i. **Extant permissions (1,193 dwellings).** The Council has not considered any lapsed permissions (or anticipated lapsed permissions) when including extant permissions in its calculations. It is also important to note the trajectory already assumes the completion of **842 dwellings** last year and a further **736** in the current financial year. There just isn't the evidence before us to confirm any confidence in the delivery.
- ii. **Windfall sites (608 dwellings).** This is based on 152 dwellings every year from 2026/27 where in the first year 393 dwellings are already included for extant permissions.
- iii. **Strategic allocation (800 dwellings).** Delivery is still expected to commence next year (2025/26) at Paddock Wood/Capel (STR/SS 1) despite all the evidence and concerns discussed at the Stage 3 hearings.

The table below summarises the now helpful breakdown provided by the Council of the parcels, across the whole plan period:

	Capel sites		Paddock Wood	Totals	
	North-West (A)	South-West (B)	Eastern Parcels		
2025/26			10	10	10
2026/27			80	80	90
2027/28	30	40	120	190	280
2028/29	80	60	120	260	540
2029/30	80	60	120	260	800
2030/31	100	67	120	287	1,087
2031/32	100	67	120	287	1,374
2032/33	100	60	120	280	1,654
2033/34	100	60	120	280	1,934
2034/35	100	60	120	280	2,214
2035/36	60	40	120	220	2,434
2036/37	20		54	74	2,508
2037/38					
<b>Total dwellings</b>	<b>770</b>	<b>514</b>	<b>1,224</b>	<b>2,508</b>	

SC considers that this trajectory is not deliverable for the reasons set out in this representation, which also affects the 10-year housing supply (from para 8.13 below).

- iv. **Other allocations (1,088 dwellings).** SC notes a revised trajectory which is lower over the first five years when compared with the consultation evidence in February. Is there adequate confidence that these 30 sites which are listed as allocations will not incur further delays and contribute fully to the 5-year need?

8.8. SC considers that the Council's suggested five-year supply buffer of 287 dwellings (Table 1 of PS\_107) at the expected time of adoption is therefore highly questionable.

8.9. Furthermore, the Council claims that it can demonstrate a rolling five-year housing land supply through to 1st April 2030 (which would cover to the end of the 10-year supply period to 31 March 2035). The evidence of this is unclear when, even if the proposed trajectory were deliverable, the trajectory shows **2,991 dwellings** during that period (10,100 – 7,109 as set out in the table above in para 8.2). Applying the 660 per year target equates to 3,300 dwellings before any buffer is applied. Is the claim justified?

## 10-Year Housing Land Supply

- 8.10. The delivery of a 10-year supply is at the heart of the revised Plan where the Council states<sup>24</sup> that it “...is confident that a 10-year housing land supply can be achieved post-adoption. The Council will then aim to meet the needs beyond the 10-year supply period by way of an immediate Local Plan review”.
- 8.11. SC does not share this confidence given that there is only a buffer of 200 dwellings in 2035 (10,100 – 9,900 as above para 8.2), which amounts to only 2% of the anticipated supply. In any context this buffer is not adequate justification that supports the policy in STR 1<sup>25</sup> which states “Includes a buffer to allow for potential delays or non-delivery of sites”.
- 8.12. The uncertainties referred to above regarding extant permissions, windfalls, and ‘other’ allocations demonstrate that there is a significant risk of not achieving the revised strategy.
- 8.13. Furthermore, the delivery of the strategic allocation is at best problematic, and SC has set out concerns on the revised STR/SS 1 policy under section 9 below.
- 8.14. This strategic growth is highly complex – with seven parcels of development, complicated by the need to address drainage and flood risk, and at least four developers. Our concerns include:
- Delivery of the required infrastructure at the right time
  - Viability risks
  - Lead-in times for the Capel sites, in particular
- 8.15. SC therefore submits that the delivery of a 10-year housing land supply on adoption remains highly questionable.

## Distribution of Housing Allocations

- 8.16. SC is increasingly concerned that Capel’s rural identity is being overlooked and there is a total disregard for the parish, for example, in Table 4 Distribution of housing allocations (PS\_107) Capel remains struck out. SC raised the point that significant housing is proposed at East Capel during the hearing in July and is very disappointed that the Council has not corrected this for the consultation.
- 8.17. It also unclear what the (\*) references in Table 4 to Appendix 2 relate to as there is nothing in the policy wording to explain the references.

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<sup>24</sup> Housing Needs and Supply (PS\_107) Appendix 2 at para 4.54

<sup>25</sup> Para 4 of revised policy STR 1 (PS\_109)

## 9. Strategic Allocation – Paddock Wood and Land at East Capel (PS\_095)

- 9.1. As set out in other sections of this representation, SC maintains our position that the exceptional circumstances necessary to remove land at East Capel from the green belt are not justified, even with the new evidence which is subject to this consultation.
- 9.2. Notwithstanding our overall position and whilst reserving our opportunity to respond to any main modifications stage, SC considers that the revised policy STR/SS 1 now proposed is an improvement on that proposed by TWBC in its hearing statement earlier this year. In particular, SC is encouraged that TWBC has listened to our concerns and no longer relies on Supplementary Planning Documents (SPDs) to deliver the proposed growth.
- 9.3. However, the revised policies still contain too much uncertainty and - in many respects - cannot be delivered. Particular concerns are the high dependence of the plan on the timely delivery of infrastructure as well as the financing of infrastructure through developer contributions. Neither are secure and the revised policy does not address the risk of non-compliance nor provide any mitigation plans. We refer to specific policies of STR/SS 1 below.

### Development principles

- 9.4. SC is concerned that **Paragraph 2** regarding garden settlement principles no longer includes reference to what these are. In the SLP<sup>26</sup> there is “*Planning applications need to demonstrate consideration of the associated key qualities as outlined in the supporting text*” which has been removed.
- 9.5. It is important for those reading and using the Plan to understand what is required of such developments, to ensure that they are planned and come forward with the garden settlement principles. Having considered these principles and assessed the proposed development at East Capel, SC is clear that development does not meet these requirements. This is discussed in what follows.
- 9.6. The SLP sets out (at para 5.190) ten qualities at the heart of the creation of a sustainable community which are not achievable due to the restriction of development to Flood Zone 1 and the creation of poorly connected “island” parcels. Furthermore, the western sites are divided by the mainline railway without any vehicular access being required in the Policy.
- 9.7. To explain this further, SC has the following comments on the supporting text [emphasis added]:
  - **Clear identity:** “*a distinctive local identity as a new garden community, including at its heart an attractive and functioning centre and public realm*”. SC has set out why the creation of the now five disparate parcels of housing development in Capel cannot deliver a distinctive local identity in previous responses to the examination. These are effectively “islands” connected only by causeway linkages across the separate areas north and south of the railway. For example, residents in a northwest parcel will not feel connected with those in one in the southwest, let alone with those in the Eastern sites. This is not “a” garden community and cannot provide “an” attractive and functioning centre at its heart.
  - **Sustainable scale:** “*built at a scale which supports the necessary infrastructure to allow the community to function self-sufficiently on a day-to-day basis, with the capacity for future growth to meet the evolving housing and economic needs of the local area*”. The examination has already heard from our consultants (Motion) that the amount of Flood Zone 1 designated land within the allocation reduces over time due to climate change. Also, they concluded that the proposals represent the maximum amount of development that could occur in the eastern part of Capel Parish. Therefore, the development cannot provide the required capacity for future growth.

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<sup>26</sup> CD\_3.128 Local Plan Submission version (Policy STR/SS 1 [6] on page 147)

- **Strong local vision and engagement:** *“designed and executed with the engagement and involvement of the existing local community, and future residents and businesses”*. SC is increasingly concerned that Capel’s rural identity is being overlooked where we can see nothing in the Plan that benefits those living in the existing adjacent hamlets nor compensatory measures such as those identified in the made Capel Neighbourhood Plan<sup>27</sup>, e.g. new village hall and cycle/footpath across the A228. SC is also concerned that a revised strategy for Capel Parish (CA1) has not been included in this consultation given the substantial change in strategy for housing in Capel and the time available to TWBC through the delays to prepare this.
- **Transport:** *“integrated, forward looking, and accessible transport options that support economic prosperity and wellbeing for residents. This should include promotion of public transport, walking, and cycling so that settlements are easy to navigate, and facilitate simple and sustainable access to jobs, education, and services”*. SC considers that “simple and sustainable access” is not deliverable and sets out our comments under the relevant policies below.

### Paragraph 3

- 9.8. Nearly half of the proposed development in this policy will be situated in Capel Parish, yet paragraph 3 makes no reference to the recently adopted Neighbourhood Plan for Capel Parish (“NP”). This is a significant omission. SC propose an explicit reference to the NP and its policies, especially with regard to local housing mix need, the rural character of the parish, design guidance and environmental impact.
- 9.9. 3(c) includes *“...a continuous and homogeneous landscape”* which is hardly achievable with the development across so many disparate parcels.
- 9.10. 3(d) states *“ensure that the development responds appropriately to local character and overall setting”* but there is no policy requirement that safeguards the privacy and amenity of existing residents in Whetsted and around Eastlands in particular. SC would expect adequate buffers and landscaping to be required for all adjacent properties, whilst noting the adjacent/nearby heritage assets and their setting.
- 9.11. 3(e) and 3(g) include broad commitments to low-carbon development and biodiversity protection. But these commitments lack detail and are essentially ‘toothless’. There are no specific, enforceable environmental targets. And it is unclear how delivery will be tracked and assessed nor how underperformance will be addressed.
- 9.12. SC is concerned that policy 3(h) *“ensure that surface water runoff from the development will not exacerbate and so far, as possible and practicable improve flooding elsewhere”* no longer provides adequate clarity. The SLP<sup>28</sup> included the requirement for a Drainage Strategy which SC considers should be re-instated, with the following amendments:
- “Ensure a drainage strategy is in place, in consultation with the Local Planning Authority, Kent County Council as the Drainage Authority, and Southern Water prior to the grant of planning permission for any **substantial** development on the site, ~~unless exceptional circumstances arise~~. This should demonstrate that there is adequate capacity in the foul sewage network, and that development will not exacerbate flooding elsewhere. The drainage strategy should be implemented through the development to deliver the levels of storage, attenuation, and mitigation measures to reduce the incidence of flooding to adjacent residential areas in Paddock Wood **and Capel**”.
- 9.13. SC notes the widespread condemnation of how the extant developments around Paddock Wood have been managed, in particular the late/absent delivery of infrastructure, and would welcome further improvements to this wording under 3(h).

<sup>27</sup> Made on 2<sup>nd</sup> October 2024 (during the course of this consultation). The made CNP can be found here: [https://tunbridgewells.gov.uk/\\_\\_data/assets/pdf\\_file/0006/482370/Capel-Neighbourhood-Plan\\_Made-Version-accessible.pdf](https://tunbridgewells.gov.uk/__data/assets/pdf_file/0006/482370/Capel-Neighbourhood-Plan_Made-Version-accessible.pdf)

<sup>28</sup> CD\_3.128 Local Plan Submission version (Policy STR/SS 1 [13] on page 147)

Paragraph 5

- 9.14. SC considers that the text “...where necessary” should be removed from this policy. These assessments should be a requirement of the policy which already refers to “appropriate”.

Paragraph 6

- 9.15. SC is unaware of any legal or other definition of “Design Review Panel” and is concerned with the resulting lack of clarity on governance. It would be helpful to understand how this body is constituted: who will be its members, what will be its mandate, what will be its decision criteria; what will be its meeting frequency and how transparently will it report its decisions to the public? Also, will it include members of the local community / ensure local community engagement?
- 9.16. We also note that the Development Principles do not include any mention of engaging with the local community. This surely is a critical success factor in ensuring local input and support. This rather obvious oversight is unfortunately characteristic of how the TWBC local plan-making process has been conducted from the outset.

## Masterplanning

- 9.17. This section of policy is welcome and reflects the significant change in approach by removing the reliance on SPDs which SC, and others, called for at the hearings.

Paragraph 8

- 9.18. 8(a) is generally supported but should include reference to Capel, its communities and neighbourhood plan, where once again SC is concerned that the Parish is being discounted. Our comments on paragraphs 2 & 3 are also relevant here.
- 9.19. 8(b) deals with heritage assets where SC is concerned with the text “...sympathetically integrated **into** the development...”. The reference to “**into**” conflicts with the other policies which seek to mitigate the impact on the landscape and the setting of these important assets. STR/SS 1 should be clear with adequate policy in this area and consistent with Policy EN 5.
- 9.20. 8(e) deals with sustainable transport where SC considers that the Capel parcels, in particular, cannot deliver the required “...full range of sustainable transport measures”. For example, residents in the northwest close to the railway would need to drive north to access the A228, then head south and then access the southwest area to travel on the internal roads to visit friends, drop off children, baggage, etc. A significant journey for what is only a golf shot away – hardly sustainable.
- 9.21. 8(g) requires “...convenient and highly legible pedestrian and cycle links through the allocated site to connect the Parcels and integrate the new communities”. Again, this is where the strategy fails to demonstrate integration. Whilst the policy refers to legibility, it does not address safety concerns. There are no improvements to cycle safety or amenity proposed to connect the Paddock Wood and Capel elements of the draft allocation. This means, for example, that a child living in the residential areas in Parcel A seeking to travel to Mascalls secondary school would need to cycle on carriageway with motorised vehicles. This does not meet the requirements of LTN1/20. Moreover, in the absence of a new, LTN1/20 compliant railway crossing, it would make a journey between the two elements of STR/SS 1 unattractive to the majority of residents as well as dangerous (see paragraph 16 below).
- 9.22. Neither 8(e) or (g) provide any information on how public transportation (e.g. buses or trains) will be enhanced to handle increased population demands. This could lead to over-reliance on cars, exacerbating traffic congestion and undermining sustainability goals.

9.23. 8(j) refers to “...*compensatory improvements to the green belt*” where the examination has discussed what these might be. SC remains unclear and users of the Plan need clarity of what constitutes such compensation. How would development proposals be judged without any guidance in policy?

Paragraph 10

9.24. This paragraph at sub-item (2) refers to “...*the timely provision of Parcel specific and shared infrastructure taking into account Table 11 of the Council’s Strategic Sites and Masterplanning Infrastructure Study...dated October 2023*”. SC is unable to locate such a table although there is a Table 8 which may be intended.

9.25. This paragraph begins to address our long-standing serious concerns that the required infrastructure is not adequately justified and scheduled. Whilst acknowledging the steps taken by the Council, we now have several infrastructure schedules before us:

- The Infrastructure Schedule referred to above (“DLA”)
- Infrastructure Delivery Plan (“IDP”)
- Schedule of infrastructure requirements in the viability work (“VA”)
- Supporting infrastructure list (see paragraph 16 below)

9.26. SC considers this evidence to be inconsistent, misleading, and renders the plan unsound. For example, the STR/SS 1 policy requires mitigation improvements at Pembury/A264 and at the Somerhill roundabout (Junction 8), when the DLA referred to does not include these interventions. See also the discrepancies between the IDP and the VA listed above (para 7.8).

9.27. More broadly, para 10 provides general guidance on masterplanning but leaves significant flexibility in how each parcel is developed – in essence each parcel has its own masterplan. This could lead to inconsistent design standards and cohesion and delays in infrastructure delivery, particularly as developers will focus on their individual parcels.

9.28. If this Plan is to ever be found sound, then users require clear policy on the infrastructure necessary to make it so. A way of doing this is suggested below under paragraph 16.

9.29. Therefore, SC considers that paragraph 10 at sub-item (2) should be improved by referring to an improved paragraph 16 set out below instead.

## Strategic Infrastructure

9.30. This section is where the most significant and welcome improvement areas are suggested which SC recognises the work of the Council. However, SC has the following serious concerns:

Paragraph 12

9.31. 12(a) again refers to “...*capable of being integrated*” where SC has set out above why this is not deliverable.

9.32. 12(c) requires “...*occupiers have a range of sustainable travel options at their disposal, including access to bus services*” where there is only provision for a 5-year bus subsidy. This is considered to be inadequate when the majority of occupations would occur much later and in particular that our consultants (Motion) consider the proposed public transport strategy is not financially viable and can only be delivered through the provision of an in-perpetuity subsidy.



Paragraph 14

- 9.33. This paragraph is helpful in setting out the funding obligations and refers to the IDP “... (As Identified within the Infrastructure Delivery Plan)”. SC acknowledges that this is an iterative borough-wide document and our comments on the IDP are set out above (section 6).
- 9.34. In that regard, the IDP<sup>29</sup> refers to “Appendix 2 – Paddock Wood Specific Delivery Strategy” which SC has been unable to locate. When reading this, SC had the expectation that this strategy document might address some of our concerns. It is unclear whether the Council decided not to prepare this document or rushed out the consultation and omitted it.
- 9.35. In any event, we do not have a clear schedule of all the infrastructure required by policy to deliver the strategic allocation at the outset. Therefore, the reference to the IDP in this policy is unclear.
- 9.36. The timely delivery of strategic infrastructure, including transport, education, healthcare and leisure, is critical to the sustainability of the proposed development. It is clear that financing of its provision will rely heavily on developer contributions (through Section 106 and/or the Community Infrastructure Levy). SC is concerned that there is no assessment of the economic viability of these contributions - be it due to an economic downturn, ‘gaming’ of housing trigger points or developer non-compliance – nor any plan of how contributions can be enforced or shortfalls mitigated.

Paragraph 15

- 9.37. This paragraph highlights the key infrastructure, which may be helpful, but a comprehensive schedule is also needed. SC has the following comments:
- 9.38. 15(a) deals with sports and leisure provision and SC remains concerned with the provision of a swimming pool “if feasible”. This was included in the Submission Plan, and we re-iterate our concerns.
- 9.39. 15(b) the shortage of health provision in the area justifies clear policy on future provision and the text “...one or more” is unclear. Users of the Plan need clarity of what is required to meet future demand.
- 9.40. 15(c) deals with schools and SC has set out our concerns above (section 3). It would be helpful to also explain primary school provision in this policy.
- 9.41. 15(d) refers to the cycle bridge over the railway in Capel which SC considers is both essential and required early to influence the behaviour of occupants. However, we are concerned with the inclusion of “...subject to National Rail” in the parameters table of policy [16], which suggests uncertainty.

Paragraph 16

- 9.42. This paragraph is a welcome start to what SC considers necessary but is concerned with the heading “**Indicative Supporting Infrastructure...**”. SC has set out our concerns about the delivery of transport infrastructure above (see sections 5 & 6) where interventions such as the Colts Hill bypass are required much earlier than proposed. In that regard, whilst contributions are identified in the table, it is the delivery of the by-pass that is crucial, and SC considers that Policy should require evidence that feasibility and CPO work has been completed before any planning applications for housing are brought forward (at the very least).
- 9.43. SC endorses the recommendation by National Highways at the hearing in July that Policy should clearly set out the phasing of housing development alongside the delivery of the required infrastructure.
- 9.44. SC recommends that a comprehensive schedule of the necessary infrastructure with timescales, referred to above, replaces the current table under this paragraph 16. This would enshrine in policy what is necessary to deliver a sound plan. This would represent (perhaps) the missing appendix referred

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<sup>29</sup> PS\_105 TWBC Final Infrastructure Delivery Plan-August 2024 [para 1.4]



to above 9.34. It would be helpful if each intervention is given a reference number to assist users of the Plan going forward.

- 9.45. In short, if the Inspector determines the Plan is sound, the justification of the required infrastructure must be clearly set out in Policy.
- 9.46. Further interventions that may arise through the build-out, and any review of the development plan in future, can be suitably covered by text in this policy to that effect.
- 9.47. It would be helpful if the Council provided this schedule in advance of the proposed hearings, where SC does not wish to delay the examination any further than necessary. Otherwise, if the Inspector is minded to progress the Plan through to the main modifications stage, then SC suggests that this schedule can be consulted upon then.

#### Monitor & Manage

- 9.48. The final item in the proposed parameter table relates to Five Oak Green/B2017 (note: it is not “Five Oaks”) where SC has serious concerns previously expressed and set out above (see section 6).
- 9.49. It is unclear what “works” means in the table.

## Development Parcel Principle Uses and Development

### Policy STR/SS 1(A) – North Western Parcel Requirements

- 9.50. SC finds it unclear why “without prejudice” is included in this policy when it should be a requirement that the parcels must be developed in compliance with the overall STR/SS 1 policies.
- 9.51. SC has serious concerns regarding (i) as to whether the 40% affordable housing is deliverable. We refer to comments under section 7 of this representation.
- 9.52. In that regard, the viability work indicates that the provision of 40% affordable housing is only viable, at best, under only 3 (!) out of the 8 scenarios modelled. This policy is therefore unlikely to be achievable from the outset. The exceptional circumstances clause with Policy H3 also gives cause for concern that the developers of these sites, in particular, will wiggle out of achieving this.
- 9.53. Also, given the emerging policy of the government that requires 50% affordable in currently designated green belt, SC considers that further consideration should be given to whether the Capel land should be removed from the green belt.
- 9.54. As noted in section 7, we also note that the Viability Assessment in its current form is likely to severely understate total cost. The VA is based on very aggressive contingency assumptions – a more prudent approach would increase cost by £30million. In addition, the VA is missing 8 PWEC-relevant infrastructure projects that would increase by >£6million (for costed projects alone).
- 9.55. These comments equally apply to *Policy STR/SS 1(B) – South Western parcel Requirements*.

## Conclusion on the Strategic Allocation (STR/SS 1)

- 9.56. SC has set out above some of the improvements that we consider necessary for a positively prepared, justified and effective policy for the strategic sites.
- 9.57. However, there are policies which remain unlikely to be deliverable and the fundamental flaw is the continuing lack of clarity on what infrastructure is required and when. Our conclusions are set out under section 12 below.

## 10. Policy Wording (PS\_109)

### Need for an early review

- 10.1. SC has fundamental concerns about this claimed, “need for an early review”. Whilst it seems fair that such an approach can be used to deal with some uncertainty towards the end of a plan period or less than critical shortcomings in a plan that have an impact on soundness or legal compliance as a whole, such a mechanism should not be used to resolve such critical shortcomings. To take such an approach would undermine the entire purpose of this examination.
- 10.2. The Council has updated the projections of housing supply (see section 8 above) to meet a revised target of 11,880 dwellings over the plan period to 2038. Taking the mid-point of proposed dwelling ranges, there is a shortfall of approximately 1,000 dwellings<sup>30</sup>.
- 10.3. Consequently, an early review of the Plan is proposed that would address the shortfall rather than the Council identifying additional sites to meet the full need of the Plan. SC considers that this work should have been done already where the Council now proposes doing even more work in the early review.
- 10.4. In light of the revised projections, SC considers that it is important to highlight the causes of the shortfall. There are a number of issues that have led to this:
- i. **Draft allocations.** A number of sites that were originally considered by the Council to be suitable were removed in the Submission Plan. Whilst we do not consider the merits of these here, it is reasonable to expect the Council to have reconsidered them to justify the proposed strategy. Examples of broad approximate reductions<sup>31</sup> by parish are – Cranbrook 340; Sissinghurst 70; Hawkhurst 380; Brenchley & Matfield 60; Lamberhurst 30. Therefore, a notable contribution of up to around 900 dwellings should have at least been re-assessed.
  - ii. **Tudeley Village.** SC supports the deletion of Tudeley Village which is a demonstrably unsustainable location for strategic development.
  - iii. **Strategic allocation.** Reduction of around 1,000 dwellings at the strategic sites (Policy STR/SS 1) due to compliance with flood risk policy. Our comments on this policy are under section 9.
  - iv. **Alternatives.** The Council has done the minimum it considers necessary in order to try and comply with the Inspector’s findings without considering whether a new strategic approach was necessary. All it has done is to review a limited range of sites in its Stage 3 Green Belt (“GB”) Study addendum which appears to be nothing more than a tick box exercise.
- 10.5. **SC considers that there remains insufficient evidence to justify the progression of the Plan with an early review.**
- 10.6. Furthermore, the emerging revised NPPF and national planning policy, announced after the local plan hearings in the summer, would require TWBC to conduct an immediate review of its development plan in any event.

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<sup>30</sup> Housing Needs and Supply (PS\_107) para 4.54 on page 13

<sup>31</sup> Comparison of Reg 18 – Draft Local Plan – Doc 3.9 (pages 43 – 47) with PSLP – Doc 3.58 (page 42) and PS\_054 (page 68)

## Policy STR 1 - The Development Strategy

10.7. Notwithstanding our overall position and whilst reserving our opportunity to respond to any main modifications stage, SC considers that the revised policy STR 1 now proposed is unclear, inconsistent with other documents in this consultation, and - in some respects - cannot be delivered.

### Opening Paragraph

10.8. The explanation of the plan period in the second sentence is misleading and not consistent with the other evidence submitted for this consultation.

10.9. The housing supply evidence<sup>32</sup> makes it clear that the strategy is to demonstrate “...a 10-year housing land supply can be achieved post-adoption. The Council will then aim to meet the needs beyond the 10-year supply period by way of an immediate Local Plan review”. [Emphasis added].

10.10. However, STR 1 refers to the plan period which is misleading. The post-adoption period is also referenced in the Gypsy & Traveller evidence<sup>33</sup> as “...To the end of the 10-year supply period proposed in the emerging Plan (i.e., to 31 March 2035)”.

10.11. For consistency, the review should be described as “immediate” rather than “early” and SC therefore recommends that the second sentence is amended as follows:

“The strategy of this plan provides for a housing supply for the first 10 years after its adoption (i.e., to 31 March 2035) of the plan period with employment and other development including necessary supporting infrastructure, but with a requirement for an immediate early focussed review of the plan to supply housing and other requisite development and supporting infrastructure for the remainder final 5 years of the plan period “.

### Paragraph 2

10.12. SC recommends that modifications to Policy STR 1 include the word “proportionate” as follows... “Looks to focus **proportionate** new development within the Limits to Built Development of settlements, as defined on the Policies Map, where proposals accord with other relevant policies of this Plan.”

### Paragraph 4

10.13. SC considers that “Includes a buffer to allow for potential delays or non-delivery of sites” is not supported by evidence. We have set out our concerns on the housing trajectory (section 8 above) and it is clear from the Council’s evidence that any buffer is at best marginal.

10.14. The housing paper also states “...the revised buffer at the end of the 10-year supply period is 200 dwellings which equates to an overall buffer of 2.02%...”. SC therefore submits that this policy is not justified and effective, particularly with regard to the substantial risks and uncertainties of the strategic sites. A 2% buffer in any context is not adequate.

### Paragraph 7

10.15. SC suggests that “some” is replaced with “significant” to give perspective as follows... “Provides for **significant some** reductions in the area of the Green Belt...”.

### Paragraph 9

10.16. SC is unclear what “...rural location is fully demonstrated to be necessary” means and seeks clarification in policy on this.

<sup>32</sup> Housing Needs and Supply (PS\_107) para 4.54 on page 13

<sup>33</sup> Gypsy, Travellers and Travelling Show People (PS\_094) para 8 on page 5

### Early Partial Review of the Local Plan

- 10.17. SC refers to the use of the term “immediate review” for consistency with this and other modifications proposed by the Council, as outlined above.
- 10.18. SC considers that the wording could be clearer and more concise with a submission of the review for examination within 30 months of this Plan’s adoption. For clarity, policy should require a call for sites across the whole Borough.
- 10.19. Suggested revised wording as follows:
- “Following adoption of the Local Plan, the Council will publish an update to its Local Development Scheme (LDS). This shall set out a timetable for a partial review of the Local Plan to achieve its submission for Examination within 30 months of this Plan’s adoption. The review shall include investigation of ways of meeting identified unmet housing needs, through a new call for sites across the whole Borough, until the end of the plan period (2038) “.
- 10.20. SC also recommends adding “proportionate” as follows... *“The early review shall be conducted with the objective of securing **proportionate** sustainable development to...”*. To ensure the Partial Review is Positively Prepared, STR 1 should also clarify that “all reasonable options are objectively considered including revised spatial strategies with proportionate development across the Borough”.

## Supporting text

- 10.21. SC notes that it is difficult to fully consider these proposed modifications without the context of the other modifications necessary to the Submission Plan and would seek to make further representations at any main modifications stage.
- 10.22. However, SC has serious concerns with the proposed supporting text in PS\_109 and highlights the many factors that have resulted in the shortfall of housing (see para 10.4 above). It is fundamentally not just about Tudeley Village.
- 10.23. Furthermore, the supporting text continues to imply a pre-determined outcome to re-introduce Tudeley Village rather than an open-minded investigation of more sustainable alternatives.
- 10.24. SC therefore submits that the following modifications are necessary:
- i. Para 4.49 should include the following addition:

“The Council’s response was to remove Tudeley Village and reduce the scale of development at the strategic sites in Paddock Wood and Capel”.
  - ii. Para 4.51 should be deleted. The allocation is not in the Submission Plan and therefore justification of it is not appropriate or necessary for soundness. In particular, the text *“Also, critically, it was located beyond the High Weald National Landscape area”* is entirely inappropriate and misleading. The site is immediately bordering c.1.3km of the High Weald National Landscape and would cause high harm to its setting.
  - iii. Para 4.52 is amended to *“The Tudeley Village site is located...”*.
  - iv. Para 4.54 should be deleted. The Inspector stated at the hearings this year that he could not rule out any allocation, in general, from being brought forward in the future development plans of LPAs. He also confirmed that Tudeley Village remains unsustainable despite the attempts by the Council to justify it with the introduction of evidence throughout the examination.

- v. Para 4.55 should be deleted. The proposed wording and pursuance of further evidence to support this unsustainable allocation gives the impression of pre-determination as noted above. SC was alarmed when the Council stated at the hearing that “we need to build upon the evidence” when TWBC has singularly failed to prove the sustainability of Tudeley Village despite >5 years of ‘evidence building’ at considerable expense – when will it end?
- vi. Para 4.56 is accepted although the review should be “immediate” for consistency.
- vii. Para 4.57 proposed wording is unacceptable as it refers solely to Tudeley Village when there are also other reasons for the housing shortfall. Further, the reference to a future development strategy appears unnecessary and tends to suggest that the development strategy set out in the modified plan is simply a transient/temporary one. SC recommends the following modifications to the supporting text:

~~"The findings in respect of Tudeley Village set out above mean that in carrying out the early review of the Local Plan, The the Council will identify and assess reasonable options for meeting unmet housing needs, and without prejudice to any decisions made about a future development strategy to meet this unmet need, will consider, all reasonable sites put forward through a Borough-wide 'Call for Sites' and other land identified by the Council to be assessed as part of the Strategic Housing and Economic Land Availability Assessment (SHELAA) process".~~

- 10.25. If the Inspector considers that the Plan could be made sound with main modifications, SC has set out above under the strategic policies what changes it considers necessary (section 9 & 10). Fundamentally, a clear schedule of required infrastructure and its timing is needed in Policy. Users of any adopted Plan will need clarity if there is to be any chance of sustainable development.

## 11. Other allocations (PS\_108)

- 11.1. SC notes the correspondence with KCC on these two allocations, although continues to have concerns about the reliance on such late evidence as with the rest of the evidence brought into the examination.

*Policy AL/RTW 19 - Land to the north of Hawkenbury Recreation Ground*

- 11.2. SC is content with the improvements in policy to require a full Transport Assessment, and the need for a Travel Plan and a Traffic/Event and Parking Management Plan.

*Policy AL/HA 8 - Site at Limes Grove (March's Field)*

- 11.3. SC notes that KCC H&T have confirmed their support for the removal of this draft allocation and policy, although it is evident that there are a lot of issues that the developer might want to consider further.

- 11.4. In summary, SC does not have further comments at this stage but would wish to consider other responses to PS\_108 in this consultation once they are published. We reserve our request to attend any hearing of these matters.



## 12. Conclusions

- 12.1. SC has sought to work with the Council over the past five years and continuously recommended that they revisit the spatial strategies that they had identified themselves earlier. SC also provided suggested alternative sites and opportunities that should be reconsidered.
- 12.2. However, the Council continued to pursue a demonstrably unsound Plan at the point of submission and has since been given a number of opportunities to provide further evidence to justify that it could be made sound. This has resulted in an already extended examination (now three years) where SC considers it has still fallen short of what is required.
- 12.3. SC has set out in our Introduction that we consider the Council's approach has not been helpful and now concludes that this draft Plan should be found "unsound" and either withdrawn immediately or respectfully requests the Inspector to reach the same conclusion
- 12.4. There comes a point when everyone should face reality, and this revised Plan strategy simply does not work. There are a number of reasons for saying this, which include:
- i. **10-year housing supply.** SC considers that the buffer of 200 dwellings in the trajectory is too vulnerable to risks associated with several factors set out above (section 8). The evidence does not justify its delivery which is at the heart of the strategy.
  - ii. **Early review.** SC considers that this is not justified and in any event an immediate review would be required by emerging national policy. The necessary work required is broadly similar to the "no plan" option now. Many examined policies would not need to be re-created.
  - iii. **Education.** The revised strategy for secondary school expansion at Mascalls Academy is problematic (see section 3 above) and doesn't allow further expansion for the further 913 houses to the south-east of Paddock Wood<sup>34</sup> after the 10-year plan period (i.e. post 2035). SC accepts that land is safeguarded for a new school (our preferred option) but questions the lack of commensurate evidence for this option. Secondary school provision remains uncertain.
  - iv. **Highways improvements.** Motion considers that several mitigations are not deliverable and projected traffic is understated by unrealistic modal shift assumptions. Hotspots remain despite the reduced growth and mitigation proposed (see section 5 above).
  - v. **Public Transport.** Motion considers the proposed public transport strategy is not financially viable and can only be delivered through the provision of an in-perpetuity subsidy.
  - vi. **Cycling.** Routes include public highways which are unsafe and not compliant with LTN/120.
  - vii. **Viability.** SC is not satisfied that there is a reasonable prospect of the development being viable (see section 6 & 7), cost assumptions are overly aggressive and incomplete, and there is little chance of the 40% affordable provision being delivered.
  - viii. **Green Belt.** Exceptional circumstances for GB release are not substantiated with the loss of sports provision (e.g. 25m swimming pool) at the Capel parcel and very limited flood mitigation.
- 12.5. This is not a position we have reached easily, but in addition to our conclusions above, it seems that the Council, through its over-reliance/faith in an early review mechanism appear to have acknowledged the fundamental failings in this plan and are trying to use the early review approach to wrestle these issues away from the Inspector. The early review mechanism should not be used as a panacea for the fundamental and critical shortcomings identified throughout this examination by SC and others. Adopting a bad plan (or an unsound one) is not better than no plan at all.

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<sup>34</sup> PS\_047 SWECO Stage 1 Technical Note 'Local Plan Scenario 2' [Table 9]

## Appendix 1 (Technical Note prepared by Motion Consultants)

Motion Consultants have been engaged jointly by Save Capel and Capel Parish Council to review the new highways evidence as part of this consultation. A summary of Motion's findings is included under Section 5 above.

*Technical Note on new Highways evidence produced by Motion Consultants (dated 4<sup>th</sup> October 2024) in respect of the following:*

- *PS\_099 Introductory Note to Highway Modelling Reports (September 2024)*
- *PS\_100 Modal Shift Analysis Technical Note (April 2024)*
- *PS\_101 A264 Pembury Road corridor- Junction Capacity Assessment (June 2024)*
- *PS\_102 Junction Hotspot comparison (June 2024)*
- *PS\_103 Strategic Transport Assessment – Modelling Appraisal (April 2024)*
- *PS\_104 Strategic Transport Assessment Addendum (June 2024)*

**This appendix is to be read in conjunction with this main representation. The document is submitted separately.**

Both this submission and the Appendix will be available on our website [www.savecapel.com](http://www.savecapel.com)

**Note:**

**Save Capel's previous responses to the Regulation 19 Consultations (in 2021 and Feb-2024) can also be found on its website**



Submitted by the Save Capel Executive

21.10.2024