

TLAG – response to MIQs (6 September 2019)

Matter 1 – Procedural / legal requirements

MIQ number	Question	Cross reference to TLAG representations	TLAG response
Q1.1	<p><i>Is there clear evidence that, in the preparation of the Plan, the Council has engaged constructively, actively and on an ongoing basis with neighbouring authorities and prescribed bodies on strategic matters and issues with cross-boundary impacts in accordance with section 33A of the Planning and Compulsory Purchase Act 2004, as amended [the 2004 Act]? Is there clear evidence that the Council has done all it reasonably could to maximise the effectiveness of plan preparation by cooperating with all other relevant bodies, particularly in respect of addressing unmet housing need?</i></p>	Para 4.26 – 4.29	<p>TLAG noted in our original Regulation 19 representations (July 2019) the inadequacies of the Duty to Cooperate Statement Update (2018) in demonstrating any serious attempt to negotiate with neighbouring authorities in meeting unmet housing need.</p> <p>TDC has not prepared any further update to the Duty to Cooperate Statement, but has published a number of Statements of Common Grounds (SoCG) prepared between TDC and neighbouring authorities, namely with Crawley Borough Council (CBC), Guildford Borough Council (GBC), Mid Sussex District Council (MSDC), Mole Valley District Council (MVDC), Sevenoaks District Council (SDC), and Wealdon District Council (WDC).</p> <p>Whilst each of the SoCGs recognises the emphasis placed on local authorities to work together to meet development requirements that cannot be wholly met within their own areas (quoting paragraph 179 of the ‘old’ NPPF) they – alongside the Duty to Cooperate Statement Update - simply do not provide the necessary clear evidence that TDC has done all it reasonably can do, through cooperation, in relation to addressing unmet housing need.</p> <p>The need for robust discussions with neighbouring authorities on meeting unmet need is also a key element of justifying exceptional circumstances for Green Belt release¹. Whilst TLAG appreciate that the plan is to be determined against the policies of the ‘old’ NPPF, the ‘new’ NPPF says, in relation to Green Belt policy at paragraph 137, that before any conclusion that exceptional circumstances exist to justify changes to Green Belt boundaries is reached, the plan making authority must be able to demonstrate that all other reasonable alternatives to meeting need for development have been examined including whether the strategy “has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground”.</p>

¹ As recognised at paragraph 137 of the ‘new’ NPPF (appreciative that TDC submitted the plan for examination in accordance with the transitional arrangements – to therefore be determined against the old NPPF).

			<p>TLAG do not intend to repeat the matters in the SoCG's at length, though provide a brief summary below to demonstrate the evident lack of necessary robustness of approach in relation to contributing to unmet need:</p> <ul style="list-style-type: none"> - MSDC SoCG – The standard introductory text in relation to housing in each of the SoCGs refers to the TDC Housing Market Assessment (HMA) Paper which provided evidence that suggests that Tandridge is a functional component of a HMA including Croydon, Reigate and Banstead and Mid Sussex. The MSDC SoCG then notes, however, that (on the basis of the Mid Sussex District Plan Inspector's conclusions) Mid Sussex forms part of the North West Sussex Housing Market Area (HMA) along with Crawley and Horsham. The SoCG then also notes (paragraph 2.10) that the Mid Sussex District Plan Inspector found that MSDC's 'first priority' should be to assist meeting the needs of the Northern West Sussex and Coastal West Sussex HMAs. Paragraph 2.11 of the SoCG then jumps to the conclusion that "the parties agree that the Inspector for MSDC did not agree that MSDC should meet all or any part of TDC's unmet housing need. MSDC confirms that it is unable to meet this need". This statement is not however supported by any further evidence and contradicts the conclusions of other SoCGs that TDC will work with authorities outside of its own HMA. ² - CBC SoCG – The CBC SoCG concludes that CBC cannot help TDC meet unmet need on the basis that it cannot meet its own needs. This is not unreasonable, though it also confirms that that contributions towards the unmet need of circa 5,000 dwellings have been made via the Horsham District Plan and the Mid Sussex District Plan, bringing the shortfall in Crawley to around 300 dwellings towards the end of the plan period, with a commitment in the Mid Sussex District Plan to monitoring housing delivery against this need. The SoCG then states that "TDC and CBC will engage through a wider Duty to cooperate forum with other neighbouring
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² We also note that the SoCG with MSDC refers to MSDC's Regulation 19 representations which state that "*having established the principle that exceptional circumstances do exist because Tandridge does have significant unmet need*" TDC should be doing more to proactively seek to identify land to meet this need through Green Belt release "*particularly around Tier 1 and Tier 2 settlements which are the most sustainable settlements*" (paragraph 2.5 of the MSDC SoCG, December 2018). Whilst TLAG agree that land around the Tier 1 and Tier 2 settlements is the most sustainable, we do not agree that unmet housing need in itself demonstrates exceptional circumstances. TDC themselves acknowledge that exceptional circumstances have not yet been demonstrated for the proposed South Godstone garden village – deferring this assessment to a future Area Action Plan (AAP).

			<p>authorities outside TDC HMA in relation to housing related matters, including unmet need...”, although having already ruled out any prospect of MSDC meeting any of TDC’s need.</p> <ul style="list-style-type: none"> - SDC SoCG - The SDC SoCG similarly makes a case that Sevenoaks falls outside of Tandridge’s HMA, and that SDC may not be in a position to meet their own unmet need. One of the forward actions though, again, is for TDC and SDC to work with other authorities outside the TDC HMA in relation to housing matters including unmet need. - GBC SoCG – concludes that GBC sites well outside of the functional area of TDC’s HMA, and is not a neighbouring authority, so doesn’t need to ask if they can help meet TDC’s unmet need. - WDC SoCG – concludes at paragraph 2.1.8 that “through duty to cooperate meetings, WDC have identified that they sit within a different HMA which are meeting their own needs and there is no available capacity to meet TDC’s unmet need due to constraints. Discussions would need to first occur with neighbouring authorities in the HMA to assist with any unmet need”. - MVDC SoCG – concludes that MVDC sits outside the functional HMA and that “MVDC have informed TDC that due to constraints within the District, the could not help meet TDC unmet need”. <p>In summary, TDC have accepted through these SoCGs that:</p> <ul style="list-style-type: none"> - MSDC sits outside its HMA, contrary to the TDC Housing Market Assessment (HMA) Paper, and that MSDC cannot contribute anyway, despite MSDC committing to reviewing the contribution it makes to CBC’s future shortfall (which is as low as 300 dwellings over the plan period); - It will work with other authorities outside the TDC HMA in relation to meeting unmet housing need, but then using the location of authorities outside the HMA as justification for not seeking to explore potential to contribute; - No other authorities can make any contribution to meeting unmet need, though providing no substantive supporting evidence in the SoCGs or the Duty to Cooperate Update (2018). <p>It is also notable that there are no published SoCGs with either Croydon or Reigate and Banstead, which along with Mid Sussex are the two other authorities (according to the TDC Housing Market Assessment (HMA) Paper) within TDCs HMA.</p>
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			<p><u>reasonably done to cooperate with neighbouring authorities, on a constructive and ongoing basis, to address strategic matters and to prevent a major incursion into the Green Belt at South Godstone in particular.</u></p> <p>As a related aside, we also note with interest the evident lack of coordination with key consultees in drawing up the proposed plan.</p> <p>TDC's published its Duty to Co-operate Framework statement in 2014. Amongst the flood risk areas highlighted includes (Section 7.56): <i>“The Eden Brook flows from Blindley Heath into the River Eden at Lingfield. It is known that significant flooding occurred in the 1968 flood, leaving Lingfield entirely isolated. Occasional flooding has taken place since, but not to the same degree. The principle cause for flooding in the urban area is due to overland flow from the fields to the north west of Lingfield during periods of heavy rainfall, often compounded by fluvial flooding from the River Eden. However, the flood defences constructed along the banks of the Eden Brook and River Eden should reduce the magnitude and impact of flooding on Lingfield. “</i></p> <p>The area of search for the proposed Garden Village lies exactly to the North West of Lingfield.</p> <p>The report sets out <i>“Who the Strategic Matters need to be discussed with”</i> at Section 7.57 with the Upper Medway Drainage Authority at number 2 on the list. In preparing its response to the S19 consultation TLAG contacted the Chief Executive of the Drainage Authority. As at June 2018 he had had no contact or enquiry from TDC regarding the Local Plan (correspondence attached). In the documents provided to the Inspector setting out the Duty to Co-operate actions taken by the council no mention is made of contact with the Drainage Authority.</p> <p>Thus not only would TDC appear to have failed, again, to follow their own stated policy on duty to co-operate but their infrastructure plan still contains a very significant unsized item that, again, makes the proposed Garden Village unviable.</p>
Q1.2	<i>Is the Sustainability Appraisal (SA) adequate?</i>	Para 3.39 – 3.56	An updated iteration of the Sustainability Appraisal was published in January 2019 which merged the SA 2018 with a Strategic Environmental Assessment. As such, the representations TLAG made to the last consultation are still relevant.

Q1.3	<i>Has the SA been undertaken on the basis of a consistent methodology and is the assessment robust?</i>		TLAG would like to highlight paragraphs 3.39 – 3.56 from the previous TLAG representations which relate specifically to the shortcomings of the Sustainability Appraisal. We also support the comments made by Thakeham Homes in their Regulation 19 representations in relation to the evident bias in the SA against Redhill Aerodrome in favour of South Godstone. This reflects the comments that TLAG made in our Regulation 19 representations on the flawed decision making process as summarised at paragraph 3.36.
Q1.4	<i>Has the SA taken into account the reasonable alternatives and has sufficient reasoning been given for the rejection of alternatives?</i>	Paras 3.47- 3.56 Paras 4.108 - 4.115	<p>We refer to our Regulation 19 representations at paragraphs 3.47-3.56 which demonstrate the lack of clarity behind the consideration of alternatives in the SA and the rationale for the rejection of certain options. The representations also provide a specific comparison of the approach taken to comparing potential Garden Village locations and the evident imbalances in the scoring and analysis within the assessment, which lead to the conclusion that South Godstone should be the preferred location.</p> <p>The SA 2018 noted that the Council had determined a preferred strategy which was a hybrid of the options that had been consulted on. However, there appears to be no other mention of the hybrid approach and therefore it is not clear how the hybrid approach, and which approaches it merged together, were determined. The Preferred Strategy Paper, published in March 2017 gives the only detailed justification of the proposed approach, but it is acknowledged that this is outside of the SA process. TLAG do not agree with some of the content of the Paper. Paragraph 5.9 states that increasing the density of development within the existing inset settlements poses the risk of unacceptably altering the character of the settlements. However, whilst this may well be valid, it is pertinent to point out that the character of a small settlement to be the centre of a garden community (South Godstone) would be changed to a far more extreme extent.</p> <p>It is not appropriate that the Preferred Strategy Paper sets out, albeit very clearly, the proposed approach to the preferred strategy for delivery of development and that similar justification is not provided as part of an SA.</p> <p>TLAG also support the Regulation 19 representations made on behalf of Thakeham Homes, the promoters of Redhill Aerodrome Garden Community³. The representations included a detailed review of the SA.</p>

³ <http://consult.tandridge.gov.uk/file/5109894>

			<p>The review submitted by Thakeham also highlights that the SA scoring for Redhill Aerodrome has not taken account of all available evidence which details the various mitigation measures, as a result of which the site would perform significantly better. Further, the ultimate conclusion of the SA in relation to Redhill Aerodrome is based on a matter of deliverability, which is not a concern for the SA and this has led to an unsound assessment of the preferred location for a garden community (if indeed one is needed at all).</p> <p>Thakeham’s representations also identify that the SA is further inconsistent in its approach to considering the future delivery of non-committed highways improvements and in fact the requirements for South Godstone are at a less advanced stage of discussion than those required for Redhill Aerodrome.</p>
Q1.8	<p><i>Are the policies of the Plan designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change in accordance with Section 19(1A) of the Act?</i></p>	Para 4.112	<p>The plan does not contain a specific climate change policy designed to do this. A number of draft policies do contain reference to energy efficiency, renewable energy and sustainable transport but TLAG do not consider that these policies are detailed or radical enough to ensure that development mitigates and adapts to climate change.</p> <p>Policy TLP50 undertakes to locate <i>“most new development in the Tier 1 and 2 settlements close to services, served by a range of sustainable travel options, such as public transport, walking and cycling, to minimise the need to travel and distance travelled”</i>.</p> <p>TLAG strongly support this policy but are concerned that the draft Local Plan does not adhere to it with the proposal of a garden community at South Godstone, which is fundamentally remote from services. The policy makes clear that development in Tier 1 and Tier 2 settlements reduces travelling distances and enables sustainable modes of travel.</p> <p>The SA rates approaches 2a and 2b – which TLAG advocates but TDC has rejected – as among the best for reducing the need to travel, encouraging sustainable transport options and improving accessibility to all services and facilities (page 127) - and for reducing greenhouse gas emissions and moving to a low carbon economy (page 128).</p> <p>Approach 6, the approach which includes a garden community, is rated equally highly for these purposes but only because <i>“a new settlement can be located near to an existing train station and then also provide the necessary services and infrastructure that will help reduce reliance on private motor vehicles”</i>. Though South Godstone does have a railway station, the line provides a very limited service which is not direct to London and it not used by commuters (we provide more detailed comments on this matter in response to Q2.12). As such the SA accepts that the garden community’s inhabitants will be dependent on private</p>

			<p>car use (pages 227,233, 235). Carbon dioxide emissions will therefore inevitably increase, causing the very opposite of the mitigation of climate change.</p> <p>The Sustainability Appraisal discloses that the Environment Agency asked the Council to avoid development completely in Flood Zone 2 (page 339), a measure that would have contributed markedly to adaptation to climate change. The Council, however, declined.</p> <p>In summary, it is clear that the proposed strategy to accommodate new housing in a remote and unsustainable location – which will lead to the inevitable reliance on the private car – cannot contribute to the mitigation of, and adaptation to, climate change as required by Section 19 (A) of the Act.</p>
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