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Dear Ms Baker

SEVENOAKS DISTRICT COUNCIL LOCAL PLAN

Thank you for your letter dated 28th October, which sets out the reasons why you consider the Duty to Co-operate has not been met in respect of the Sevenoaks District Local Plan. The Council is currently preparing a detailed response to the points you have raised and the resulting conclusions, however we fundamentally disagree with your findings. This letter gives our initial thoughts and a more detailed response will follow shortly.

Please note that this initial response should be read together with our response to your preliminary letter (ED38 and ED38A Addendum to Duty to Co-operate Statement).

The comments you have provided are overwhelmingly negative, to the point of being unbalanced and presenting what we believe to be an inaccurate account of the extensive work that the Council has undertaken to meet the duty. An example of this is the reference to the West Kent Duty to Co-operate Meeting on page 2, where you state that:

'No reference was made to the likely level of unmet housing need in the Regulation 19 Plan....nor does it appear that a request was made to these neighbouring authorities to accommodate unmet need.'

It is unreasonable to assume that the Council could have known the extent of unmet need, the day after the Regulation 18 consultation closed. However, Tonbridge and Malling Council's response to the Regulation 19 consultation dated 1st February 2019, which was provided to you when the Council submitted the Plan for examination, confirms that unmet need was discussed at this meeting. It notes firstly that:

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‘At the last duty to co-operate meeting in September, all three West Kent Authorities confirmed that they were seeking to meet as much need as possible, and acknowledged the practical difficulties of taking any unmet need from each other.’

It also notes that SDC presented a ‘best case scenario’, resulting in approximately 600 dwellings of unmet need across the plan period. This single example helps to demonstrate the following points:

- Dialogue was taking place between the West Kent Authorities regarding the issue of unmet housing need;
- SDC was being as transparent as possible regarding the extent of its unmet need; and
- If the ‘best case’ scenario unmet need of 600 units could not be met through the duty, it is unreasonable to assume that a higher figure could be accommodated elsewhere.

The work with the Planning Advisory Service (PAS) and the wider ‘Peer Review’ was undertaken as a ‘sense check’ of the approach to meeting the duty, prior to submission. We will expand on this in our detailed response. However, at this stage, it is sufficient to note that we were advised to engage with PAS at a meeting with MHCLG on 6th March 2019. The outcome of this work and the conclusions reached are dismissed rather quickly in your response.

Preliminary investigations indicate that it is unusual for an examination to be abandoned due a failure in meeting the Duty to Co-operate, half way through the hearing sessions. Where Inspectors have concluded such a failure the Council has normally been advised either prior to commencement, or on the first day of the hearing sessions - presumably to avoid the abortive time and cost of participants. This approach also reflects paragraph 7 of the most recent ‘Procedure Guide for Local Plan Examinations, which states that:

‘The Inspector will raise any potential problems with the LPA as soon as they become apparent, and will give the LPA the opportunity to overcome them wherever this is possible.’

Similarly, paragraph 3.4 of the Procedure Guide states that:

‘If the Inspector’s initial assessment raises concerns that that the duty may not have been met, or identifies what appear to be fundamental flaws in the plan or the evidence base, the Inspector will raise these with the LPA as soon as possible, in order to avoid abortive further work and unnecessary cost to the LPA.’

Given the substantial nature of the Council’s Duty to Co-operate Statement, which was submitted 6 months ago, it is unclear why potential problems have been raised at this point in the process.

Your letter also draws strong links with the work we undertook to discharge the duty and the publication of the Regulation 19 Plan, noting that it was *‘far too late in the preparation of the plan to have any real influence’*. We do not agree with this statement. One of the key messages that the Council took away from our PINS Advisory visit was that the duty ‘stops’ at the point of submission. A number of

options remained available to the Council up to this point, had it concluded a failure in the duty, including a further Regulation 19 consultation.

The Council firmly believes it has taken a positive and pragmatic approach to meeting the duty to co-operate. We will set out further details of our decision making timeline as part of our detailed response, suffice to say that a pause in the process for further engagement with neighbouring authorities would not have resulted in the unmet need being met elsewhere.

Much has been made of the need for more 'constructive engagement', however no tangible solutions have been put forward to suggest that a different approach could have been taken. I will touch on the practicalities, implications and likely success of a joint sub-regional plan in my detailed response to you.

In conclusion to this initial response, the Council is disappointed with your findings, because it has complied with the duty and there is no scope to meet unmet need elsewhere. The abstract nature of the debate around what does and does not constitute constructive engagement only serves as a distraction from the key issue for this examination, which is how to meet housing need and protect Green Belt in an area where 93% of land is subject to that designation. The submitted plan would provide a step-change in housing delivery at approximately 600 homes per year, compared to our existing Core Strategy which sets delivery at 165 homes per year, representing an approximately 300% uplift. We are of the view that withdrawing the plan from examination at this stage fails all stakeholders in the process and does not represent a positive or pragmatic approach to plan making.

That said, we remain committed to assisting you however possible and will, of course, provide any additional information that you require. Your previous letter dated 14th October notes that a final conclusion on this matter will not be reached until you have considered the Council's response. Our detailed response to the issues raised in your letter will be with you by Friday 15th November, if not before.

It would also be useful to receive your views on other soundness issues to assist with the plan-making process.

Yours sincerely

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