KCC Statement re Shepway Submission Document General and Matter 1

Shepway Core Strategy
Examination of Proposed Submission Document July 2011
2nd May 2012

KCC Statement : General and Matter 1


(ii) KCC notes that the Inspector is unable to carry out the Examination on the basis of the January 2012 Submission Document because he considers the amendments suggested by the Council in Schedules 1 and 2 to be material.

(iii) In a letter of 14th February the Council agreed that the Examination be based on the July 2011 Document and requested that the Inspector recommends modifications under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended). These would be main modifications to address legal compliance and soundness.

(iv) The Council also noted that under the Localism Act 2011, a Local Authority may adopt a document with main modifications plus additional modifications if taken together they do not materially affect the policies in the document if it were adopted only with the main modifications. The Council considers that the smaller changes introduced in the January 2012 document are not main modifications and could be considered at adoption stage under this provision of the Act if the plan is considered sound. The Council suggests that the Submission Document January 2012 might be treated as a ‘shadow’ document that could be of use in the process but without formal status.

(v) KCC supports this approach.

(vi) KCC responded to the consultation on the proposed Submission Document of July 2011 with a report approved by its Cabinet Member for Environment Highways and Waste plus a schedule of more detailed comments.

(vii) On 2nd December 2011 KCC and Shepway District Council officers discussed the matters that KCC had indicated as potentially ‘unsound’ in its schedule of comments. KCC’s Director of Planning and Environment wrote to Shepway District Council on 6th January indicating its wish to resolve these matters, and the amendments that would achieve this.

(viii) KCC supports the local plan and its statements are intended to help the Inspector and the Examination by setting out KCC’s current views and addressing those matters and issues in which it has been particularly interested. KCC feels that the amendments it has suggested are consistent with the submitted evidence and with the content of the plan, and would be justified.

(ix) KCC has submitted a short statement for each of the 5 Matters to be examined.
Matter 1- Spatial Strategy, Development Distribution & Environment

Issue 1 Is the Core Strategy’s spatial strategy and intended distribution of development sufficiently justified and consistent with the local evidence base and national policy? Has sufficient consideration been given to relevant environmental factors?

Issue 1.1 Is the Strategic Corridor proposed in Policy SS1 robustly defined and adequately justified- specifically in respect of the Kent Downs AONB?

1.1 KCC responded to the consultation on the proposed Submission Document of July 2011 with a report approved by its Cabinet Member for Environment Highways and Waste. This states that the Core Strategy identifies a Strategic Corridor between the North Kent Downs AONB to the north and the rural and coastal Romney Marsh to the south that includes the main urban area of Folkestone and Hythe, and the M20 and Ashford/London railway. Policy SS1 proposes that the majority of new development takes place within the Strategic Corridor, with priority given to previously developed land. KCC supported a similar pattern of development in the Preferred Options document of July 2009 with 67% of housing development in the Folkestone and Hythe area, 23% in the “North Downs” area including the Strategic Corridor, and 10% in the Romney Marsh area (para. 5.2).

1.2 KCC submitted the following detailed comments on paragraphs 2.33 to 2.35 of the July 2011 Submission:

“*The identification of a ‘strategic corridor’ for long-term development purposes, based on the primary east-west transport channel, is strongly endorsed. This area offers the greatest potential for sustainable development in the District through the maximisation of existing – and particularly rail-based – transport infrastructure. This is of clear importance in Shepway (where) growing proximity to London by rail is likely to stimulate the in-migration of commuters during the period covered by the Core Strategy. This spatial strategy will also provide the critical mass necessary to sustain improved public transport services arising from developer contributions.***

1.3 Although Figure 4.1 and the Key Diagram (Fig. 4.2) show that the Corridor covers a neck of land to the west of Hythe KCC designated as AONB, KCC believes that the policy of the Core Strategy is clear, particularly with the proposed amendments of January 29012:

- Policy SS1 gives priority to previously developed land, and allocates strategic sites which are within the Corridor but outside the AONB.
- Para. 4.26 (July 2011) confirms that the main area for future change is expected to be within the Corridor but “outside the AONB”.
- Amendment S4 to Policy SS1 would amend the spatial priority for development in the North Downs area to protect the setting of the AONB, and to protect or enhance the landscape. It is supported by amendment Y17 to the text (Submission Document January 2012 para. 4.22)
- Amendment Y15 states that the strategic corridor is not a “broad location for general growth or a designation of land” but “represents the concentrated distribution of well served towns, villages etc...” (Submission Document January 2012 para. 4.19)

1.4 KCC therefore supports the concept of the Strategic Corridor in Shepway and the pattern of development represented by the strategic sites within it.
Issue 1.4  Does the Core Strategy as submitted take sufficient account of relevant legislation and national policy in respect of biodiversity and landscape conservation – notably in respect of international nature conservation sites and the Kent Downs AONB? If not, are the changes now proposed by the Council (for example to policies SS1 and CSD4) sufficient to address any soundness/legal compliance failings? Are additional safeguards needed arising from the Appropriate Assessment in respect of international nature conservation sites at Dungeness?

1.5  KCC submitted no substantial comments with regard to biodiversity and landscape, but notes that a number of amendments are proposed by Shepway District Council.

1.6  Amendment S4 to Policy SS1 would amend the spatial priority for development in the North Downs to protect the setting of the AONB, and to protect or enhance the landscape.

1.7  Amendment S28 would amend Policies CSD6, 7 and 8 would ensure that development proposals at each of the three strategic sites include recreation access strategies that acceptably mitigate the impact of recreation on Natura 2000 sites.

1.8  Amendments C6, 7 and C8 substantially amplify and strengthen Policy CSD4 with regard to Green Infrastructure and natural networks, and notably include:

> “pursuing opportunities to achieve net gains in biodiversity, and positive management of areas of high landscape quality…”
> “development must avoid a net loss of biodiversity:
> • The highest level of protection in accordance with statutory requirements will be given to protecting the integrity of sites of international nature conservation importance.
> • A high level of protection will be given to nationally designated sites (SSI and Ancient Woodland)
> • Appropriate … protection will be given to (other habitats)”
> “Planning decisions will have close regard to the need for conservation and enhancement of natural beauty in the AONB…”

1.9  A number of amendments and additions are proposed to the text:

• Z16 and Z18 amplify and amend 13 paragraphs, describing the Green Infrastructure of Shepway, their protection and measures to conserve and enhance landscape biodiversity and the coastal environment.
• Z19 gives priority to preserving and enhancing the outstanding landscape of the Kent Downs AONB.
• Z28 describes the variety of the coastline and the need for appropriate management.
• Z60 and Z65 explain the need for improved coastal management of the Dungeness area and note the role of Policies CSD4 and CSD5 in addressing the findings of the Dungeness Sites Habitats Regulations Assessment.
• X26 and X28 describe the distinctive features of the Romney Marsh and the North Downs

1.10  KCC supports these amendments and considers that the Core Strategy as amended would take sufficient account of relevant legislation and national policy in respect of biodiversity and landscape conservation, particularly in respect of international nature conservation sites and the Kent Downs AONB. The changes proposed by the Council to policies SS1 and CSD4 are necessary and should ensure that the Core Strategy is sound and legally compliant. With the proposed amendments KCC believes that no additional safeguards are needed arising from the Appropriate Assessment in respect of international nature conservation sites at Dungeness.
Issue 1.5  Does the Core Strategy correctly apply national policy in relation to planning for flood risk? Specifically, has a sequential approach been applied at a strategic level to determine the amount of housing envisaged in Romney Marsh generally (and New Romney in particular) as opposed to other locations in the Plan area that are a lower risk of flooding.

Tidal Flooding

1.11  KCC submitted the following detailed comments on paras 4.72 – 4.74 concerned with flood risk including tidal flooding (renumbered 4.69 - 4.72 in January 2012).

“These paragraphs explain the Sequential Test process for flooding but there is no explanation of the results. Consequently the application of the test and whether the proposed locations for development are appropriate, in terms of steering development away from high hazard areas to low hazard areas, cannot be properly judged. It is recommended that a summary of the results for each of the flood development areas be included in the Core Strategy with cross references to the SFRA and Sequential Test documents themselves.

1.12  KCC’s letter to Shepway District Council on 6th January 2012 states:

“KCC accepts that appropriate work has been undertaken demonstrating soundness in this regard and agrees that the representation can be “withdrawn”. Clearer referencing to the evidence in the Core Strategy would be appropriate.”

1.13  KCC notes that PPS25 has effectively been retained in the technical guidance which accompanies the National Planning Policy Framework that came into effect on 27th March 2012. The Sequential and Exception Tests have therefore been retained.

1.14  A number of proposed amendments address future proposals but do not record the sequential process that has been properly followed and documented for the Core Strategy:

- Amendment S13 to Policy SS3(b) would require proposals to “use more sustainable locations with regard to flood risk…”.
- Amendment Y50 states “Redevelopment of residential, sites has been a key part of housing supply in some parts of the District but where proposed in Flood Zones 2 and 3 the…design will require particular attention.” (Submission Document January 2012 para. 4.71).
- Amendment Y51 introduces a new paragraph (Submission Document January 2012 para. 4.72) which includes “…the application of a sequential approach for developments at risk of flooding.”

1.15  With regard to new Romney, KCC’s report, approved by its Cabinet Member for Environment Highways and Waste, states at para. 5.9 that the development proposed at New Romney is near an area of higher flood risk (Zone 3a). However, the site selected is “relatively free from tidal flood risks” and KCC’s Flood Risk Manager had confirmed the document contains suitable policies to ensure that development will need to meet the requirements of both the Sequential and Exception Tests as set out in the then current policy (PPS25). KCC supports amendment C22 which adds to Policy CSD8: “Recommendations of the Shepway SRFA will be followed…”.

1.16  KCC also supports amendment Y78 which states the conclusion of the sequential test for the strategic site of Folkestone Seafront in that “Southern and eastern fringes of the site are currently subject to tidal flood risks (but development is clearly warranted given its previous developed status and clear sustainability benefits to the community), and
accordingly safety must be ensured through designing-in flood avoidance and mitigation.”
(January 2012 para. 4.139).

1.17 KCC accepts that appropriate work has been undertaken to demonstrate soundness, and this is summarised in the Shepway Core Strategy Flood Evaluation. However, KCC considers that the Core Strategy should clearly state that in its preparation the sequential test has been applied to sites at flood risk, and should draw on the evidence in the SFRA and Sequential Test documents.

**Run Off**

1.18 In response to the Shepway Core Strategy Proposed Submission Document of July 2011 KCC submitted the following detailed comments on Policy CSD5:

> “Sustainable drainage should be the subject of an overarching policy as SUDS will be required by the Flood and Water Management Act 2010 as the first option for managing run-off. The reference to sustainable drainage in this policy should be strengthened and/or Policy SS3 should be expanded to this effect (see representation on Policy SS3).”

1.19 KCC’s letter to Shepway District Council on 6th January 2012 states:

> “KCC would regard the Core Strategy as sound if there were an additional clause in policy CSD5 to recognise that a “sustainable urban drainage systems (SUDS) must be considered for all developments and only where it can be proven to be unfeasible should alternative options be considered”. For brevity, the design objectives may be cross referenced in the supporting text.”

1.20 Amendment C11 provides an additional sentence in the second bullet of Policy CSD5 which states:

> “Sustainable Urban Drainage Systems must be considered and only where shown unfeasible should alternatives be considered”.

1.21 KCC also sought amendment to para. 5.57 in that “developers should strive to reduce the risk of flooding from surface water and foul water”. This is dealt with by amendment Z33 which amplifies the approach that should be taken to design for the discharge of water from development as a result of the Flood and Water Management Act 2010 (January 2012 para. 5.72).

1.22 KCC considers that these amendments would meet the points that it has made as a consequence of the Flood and Water Management Act 2010.

1.23 If helpful to the Inspector Mr Max Tant the Flood Risk Management Officer at KCC could appear at the hearing on 2nd May to participate in debate on Issue 5.4.