

EXAMINATION INTO THE DOVER NEW LOCAL PLAN TO 2040

Response to the Inspectors Matters, Issue and Questions (MIQs)

Matter 1- Legal Compliance

Land on the South West side of Hillside Road, Dover

On behalf of Glen Virtue Properties

Original Representation: 479

Original Site Reference: DOV011/TC4S100

Prepared by:

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Matter 1- Legal Compliance

Issue 3- Sustainability Appraisal:

Q5 How were suitable and potentially suitable housing sites determined for the purposes of the SA? What type of sites were discounted as part of this process?

1. We wish to highlight that the Sustainability Appraisal process is flawed and unsound because it failed to follow its own methodology. On this basis the site at Hillside Road, Dover was denied the opportunity to undergo a site specific assessment and was sifted from the potential site lists without being considered accurately or fairly.
2. Paragraph 5.4 of the Sustainability Appraisal (**SD03a**) sets out how the Council compiled the list of sites that would be suitable for assessment through the Council's Housing and Employment Land Availability Assessment (HELAA) (**GEB09**).
3. The sets out that the sites came from a range of sources including:
 - *“Sites submitted through the Council's ongoing call for sites exercises;*
 - *Existing allocated sites in the Core Strategy and Land Allocations Local Plan;*
 - *Unimplemented planning permissions, refused planning applications and withdrawn planning applications;*
 - *Sites previously considered as part of the Strategic Land Availability Assessment (2009);*
 - *Sites on the Council's brownfield register;*
 - *Land in the Council's ownership or known by the Council to be available;*
 - *Public sector land; and/or*
 - *Vacant and derelict buildings.*
 - *Sites that were received during the preparation of the Draft Local Plan and as part of the consultation on the Regulation 18 Local Plan. All site options received were subjected to the same evaluation process, including site options resubmitted with alternative boundaries”.*

4. The site at Hillside Road was originally put forward for housing development and assessed as part of the Housing and Employment Land Availability Assessment (HELAA) (**GEB09**). It was later submitted during the original call for sites as potential employment use, including the potential of a care home.
5. However, the site at Hillside Road, subject to this response, did not make it through the initial sift of the HELAA. Having been given the site reference DOV011, it was discounted as being woodland. Which is incorrect and covered further in our response to Q7 of this matter below.
6. During the 2021 Call for Sites exercise the site was given the reference number TC4S100 and again nothing further with regard to sustainability assessment was undertaken on the site.
7. When considering the methodology and approach set out in Section 5 of the Sustainability Appraisal, it can be seen that the Sustainability Appraisal is unsound and flawed, because it failed to accurately sift the sites based on its own methodology.
8. Paragraph 5.5 of the SA, sets out why the sites were initially eliminated from the first sift. This included:
 - *Too small to be allocated in the Local Plan – sites with capacity to accommodate less than 5 dwellings;*
 - *Entirely covered by national environmental constraints, specifically Special Protection Areas (SPAs), Special Areas of Conservation (SACs), Sites of Special Scientific Interest (SSSIs), Ramsar sites, Heritage Coast, ancient woodland and notified safety zones²²;*
 - *Subject to planning permission (to avoid double counting housing supply);*
 - *Under construction or since built; and/or Contrary to the policies in the NPPF, for example isolated development in the open countryside, including the AONB, with no relationship to established settlements”.*

9. The site at Hillside Road is not too small, it is being promoted to accommodate 10-15 residential units and has the size and capacity to deliver twice as much housing. Potentially in a phased approach.
10. The site is not subject to national environmental constraints and it is not subject to an existing planning permission. The site is located within the existing built confines of the Dover town settlement and therefore not an isolated form of development.
11. If the site was removed early from the process because it was originally sifted as part of the HELAA, it still should have been assessed because it was submitted during the call for sites exercise.
12. Paragraph 5.4 of **SD03a** states *“Sites were received during the preparation of the Draft Local Plan and as part of the consultation on the Regulation 18 Local Plan. All site options received were subjected to the same evaluation process, including site options resubmitted with alternative boundaries”*.
13. Consequently, the site at Hillside Road was missed from the site evaluation process and the process set out in paragraph 5.6 of **SD03a** should have been adhered to. *“The remaining sites were subjected to a detailed site suitability assessment considering their physical characteristics, land uses, setting in the landscape and historic environment, accessibility and other environmental constraints such as ecology”*.
14. Dover District Council has not followed its own methodology and has not provided a valid reason why the site at Hillside Road has not been considered as a potential inclusion in the Local Plan.

Q6 How was the Kent Downs Area of Outstanding Natural Beauty (‘AONB’) taken into account as part of the appraisal of sites in the SA?

15. As explained in the previous response, the site at Hillside Road was denied the opportunity to be accurately assessed as part of the Sustainability Assessment process. However, it can be confirmed that it is not located in an Area of Outstanding Natural Beauty (AONB), and therefore, should have been assessed ahead of the sites that are included within it.

16. In accordance with the Council's initial response to questions (Document **ED5**), there are eight sites wholly within the AONB, these sites are proposing to deliver 665 residential housing units. However, when reading the submitted Local Plan (SD01), it can be identified by the policy wording on page 129, under paragraph 4.146, that SAP13 site, Land adj 455 Dover Road (DOV008), also falls within the AONB. *"The site is in the AONB and any scheme coming forward on this site should be designed to be appropriate to the sites sensitive location within the Kent Downs AONB in respect of scale, form, materials and colour palette"*.
17. As this site falls within the Dover small sites policy SAP13, and is wholly within the AONB and located on the edge of the settlement, it is not understood why it was chosen for Local Plan inclusion and the site at Hillside Road was not. The site at Hillside Road, is not located within the AONB, and therefore, should have been considered ahead of site DOV008 or at least alongside it, in the Dover small sites policy SAP13.
18. Additionally, six further Dover sites have been allocated that adjoin the AONB (Sites SAP3, 4,5,6,7,9 and 10). On this basis, the fact that part of the Hillside Road site adjoins the AONB is not a reason for its non-inclusion in the Local Plan as a site allocation.

Q7 Is the SA based on a robust and up-to-date assessment of housing and employment sites? Were adequate reasonable alternative options considered and were they tested on a consistent basis?

19. In our response to Q5, we set out why the Sustainability Appraisal and its methodology is flawed. In summary, because sites were sifted out before they were accurately assessed and because not all sites submitted during later phases of plan creation, including during the call-for-sites and regulation 18 consultations, were considered for detailed site assessment.
20. For example, the site at Hillside Road did not make it to the Site Assessment phase, even though it is located within one of the most sustainable locations within the Dover town boundary and because it was submitted as part of the call for sites. Furthermore, the SA is not based on robust evidence because the site at Hillside Road, was not accurately assessed during the HELAA process.

21. The site was dismissed as ‘unsuitable’ in the HELAA. With the reasons that it was deemed unsuitable were stated as the following:
- *“The site is dense wood and scrubland. This includes the access point to the site in the northeast. Any development of the site would require the removal of this dense woodland.*
 - *Unacceptable impact on biodiversity.*
 - *The site is on a slope that raises away from the access point to the highway.*
 - *The raised position of the site would create development at a higher elevation than the existing residential to the east and would likely impact on the AONB immediately adjacent to the west AONB setting.*
 - *Potentially development of the scale proposed could have an impact on nearby roads in terms of vehicular traffic”.*
22. The above assessment is inaccurate as the frontage of the site, directly adjoining the road, is cleared and the rear of the site is only self-seeded woodland, with the historic use of the site being allotment gardens, which served the properties on Hillside Road. Historic Google Earth images have been provided at Appendix 1, which show the site having previously cleared and divided into small plots and a site plan from a planning application submitted on the site on 1987 shows the location of the allotment gardens (Appendix 2).
23. On this basis the woodland, identified on site is self-seeded with many saplings and very few mature specimens. By virtue of the habitat created in this nature, the site does not have any biodiversity of ecological designations.
24. The site being on a slope should not have been a reason for non-inclusion. The town of Dover, including large areas of development, is built on a slope and the design of any future scheme could reflect the topography of the land and take into consideration the existing development on Hillside Road. For example, future design proposals could ensure that there is no impact on the residential amenity, by designing layout and the massing and scale of any new dwellings to acknowledge and respect the existing development.
25. The small scale housing being proposed, just 10-15 units would fall within the limits of the Dover small sites policy SAP13. Which is proposing nine small sites in Dover with capacities ranging from 5-20.

Issue 5- Strategic Flood Risk Assessment:

*Q1 How did the Council apply the sequential, risk-based approach to the site selection process?
At what stage was this carried out?*

*Q2 Where sites were identified in areas at risk of flooding as part of the sequential test process,
why were they carried forward and not discounted entirely at that stage?*

26. The Council did not accurately undertake the sequential test of sites, because it did not assess the proposed sites against all available sites, some of which are not located in the floodplain.
27. In accordance with the Council's initial response to Examiners questions (Background document **ED5**), paragraphs 14.1- 14.3. It was identified at the regulation 18 stage that there was a shortfall of 891 units that could not be accommodated in Flood zone 1.
28. On this basis, then sites that aren't located in the floodplain should have been revisited for potential inclusion in the Local Plan as a site allocation or discounted. However, this does not seem to have been undertaken.
29. The site at Hillside Road is not included within the floodplain, and therefore, should have been included as a reasonable alternative in accordance with the NPPF and PPG guidance on development in areas of flood risk.

Google Earth Aerial Photographs:

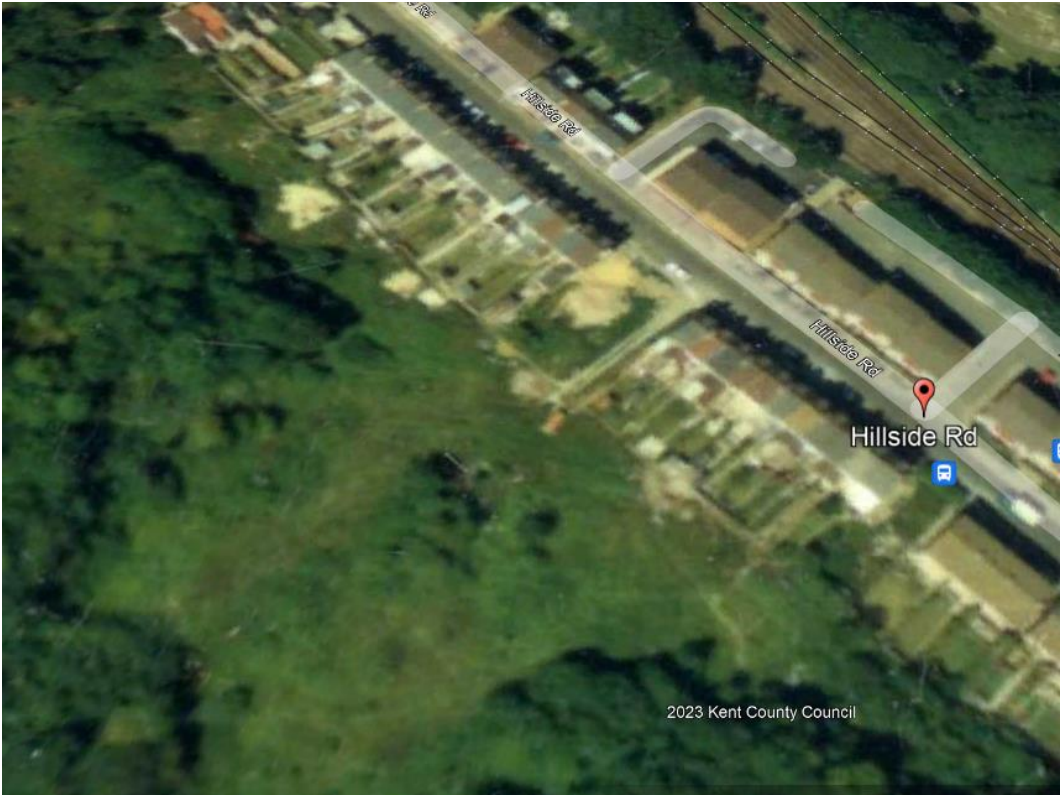
December 1940:



December 1960:



December 1990:



Copy of site plan submitted, showing allotment gardens, under application
 Reference 87/00081.

Appendix 2

