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# Examination Statement

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## Land off Sandwich Road, Ash

Dover District Council Local plan  
Examination in Public

Matter 1: Legal Compliance

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# 1. Introduction

- 1.1. This Examination Statement has been prepared on behalf of Barratt David Wilson Homes (BDW). BDW is the sole promoter of the Land at Sandwich Road, Ash (identified in the 2020 HELAA as Site reference ASH006). The site has not been allocated within the emerging Local Plan.
- 1.2. Prior to the submission of the Dover District Council Local Plan to the Planning Inspectorate for examination, BDW have participated in the formal consultation of the Local Plan at Regulation 18 (R18) (January 2021) and Regulation 19 (R19) stages (October-December 2022).
- 1.3. The location of ASH006, its surroundings and the vision have been set out in detail at the R18 stages and the R19 Stage and have therefore not been reproduced in detail in this statement.
- 1.4. For the avoidance of doubt, any policies referred to within this Statement relate to the emerging Local Plan unless otherwise stated.

## 2. Response to the Inspectors Questions

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### Issue 3 – Sustainability Appraisal

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***Q1 What are the 'reasonable growth options' in the Sustainability Appraisal ('SA')<sup>6</sup> based on? How have they been determined, and do they adequately reflect a suitable range of alternatives? If not, what should the SA have considered at this stage?***

- 2.1. A Sustainability Appraisal (SA) has an important role in the Local Plan process to ensure that the emerging Local Plan helps to achieve the environmental, economic and social objectives set out within the NPPF. The SA should assess and compare the reasonable alternatives, outlining the reasons that these alternatives were selected or rejected. Consequently, providing an essential part of the evidence base that ensures that the Local Plan is justified.
- 2.2. Chapter 4 of the SA<sup>1</sup> explores the Growth and Spatial Options for the Local Plan. It sets out three Growth Options that vary in the level of housing and employment requirements. Whilst these options are supported by a level of detail and analysis (paragraphs 4.8 - 4.25), it is not clearly demonstrated how this detail has led to the range of growth option.
- 2.3. There is mention of alternative options at SA paragraph 4.28 which states that a comprehensive set of growth options have been identified for further consideration and appraisal. These options are not described. Simply, the SA explains that lower growth options were discounted as it would be against national policy and guidance.

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<sup>1</sup> SD03a Sustainability Appraisal

**Q2 Do any of the spatial options test a scale of housing growth that would enable affordable housing needs to be met in full? If not, what are the reasons why?**

2.4. Paragraphs 4.67 and 4.68 of the SA detail which spatial and growth option is most likely to address affordability and to accommodate affordable housing. However, the detail is limited. SA Paragraph 4.68 states that larger sites provide the most opportunities for the delivery of affordable housing and that all options allow for development at larger settlements, thus all options allow for a certain level of affordable housing. SA Paragraphs 4.69 and 4.70 go further in expressing specifically which growth and spatial options would best meet SA Objective 1 (housing), explaining that the options that deliver the most homes and distribute them evenly across the district would accommodate affordable housing in all settlements. However, there is no consideration of the proportion of the affordable housing need that each option could deliver nor whether the affordable housing need could be met in full by the proposed options. When coupled with the SA's own identification (SA paragraph 6.184) that people living in Dover may not have access to affordable homes, it is considered that the SA has significantly overlooked analysis of the district's ability to deliver the necessary level of affordable housing.

2.5. The PPG<sup>2</sup> States:

*"The sustainability appraisal needs to consider and compare all reasonable alternatives as the plan evolves, including the preferred approach, and assess these against the baseline environmental, economic and social characteristics."*

2.6. The PPG further explains that an SA should:

*"outline the reasons the alternatives were selected, and identify, describe and evaluate their likely significant effects on environmental, economic and social factors using the evidence base (employing the same level of detail for each alternative option)."*

2.7. It is not considered that The SA has fully explored opportunities to deliver an appropriate level of affordable housing. It is clear that the Local Plan does not currently make provision for a sufficient allowance of affordable housing. The SA has not considered appropriate alternatives to ensure the affordable housing need is met. The SA has, therefore, not been able to evaluate the significant effects on environmental,

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<sup>2</sup> Planning Practice Guidance, Paragraph: 018 Reference ID: 11-018-20140306, revised 06.03.2014

economical and social factors of alternative options such as allocating additional sites within higher value areas of the district to allow for Council to meet its full affordable housing need in addition to boosting housing. Consequently, the Plan has not been positively prepared and is not justified.

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***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?***

- 2.8. The suitable, and potentially suitable housing sites, assessed within the SA are based on those the Council has identified as suitable, available and achievable by the Council following their Housing and Economic Land Availability Assessment (HELAA)<sup>3</sup>. The SA does not carry out its own assessment or the potential sites to identify reasonable alternatives. Instead, it assesses the effects of the potential sites identified by the Council at a baseline level (i.e. no mitigation or enhancement was considered). Table 5.4 summarises the effects of the sites options in Local Centres including Ash.
- 2.9. Site ASH006 was not included within the assessment detailed in SA Table 5.4. It is understood that this is on the basis that the Council assessed the site as unsuitable within HELAA in the basis that the site would result in the urbanisation of the north of Ash and encourage nearby sites to come forward. Fundamentally, this assessment is subjective and is not a justified decision (as further detail in our answer to Matter 2, Issue 4, Questions 1 & 5). The sustainable benefits related developing ASH006 have been disregarded on a subjective view that the north of Ash should not be developed, despite the sustainable nature of the site and the Ash bypass physical boundary to limit further development to the north. Thus, the site should have been considered potentially suitable to allow the Council and LUC to fully assess the potential effects of the site. Specific detail as to how ASH006 could come forward in a sensitive manor is detailed within our Representations to the Local Plan consultations.
- 2.10. On this basis, BDW consider that all sites that were not removed as part of the initial sift within the HELAA should be assessed as part of the SA. This would allow for a justified approach that considered all

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<sup>3</sup> GEB09a HELAA Main Report October 2022

reasonable options. Therefore, it is contested that the SA does not meet the requirements within the PPG and is not a justified piece of evidence.

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***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?***

- 2.11. It is clear that reasonable alternatives have not been considered within the SA. Figure 5.3 identifies the preferred Site Allocations. However, an assessment of the cumulative effects of the preferred sites has not been undertaken. Furthermore, it is considered a fundamental error that the SA does not assess the impact of removing all sites from Ash in light of the allocations made within the Ash Neighbourhood Plan. The removal of sites from Ash excludes the potential to bring additional sites forward in a sustainable Local Centre. On the basis that the Ash Neighbourhood Plan was made 2 years ago, and will be 2.5 years old by the Council's anticipated date of adoption<sup>4</sup>, it is reasonable to evaluate whether any additional sites in Ash could be accommodated whilst meeting the SA objectives. This is a clear and reasonable option for providing growth.
- 2.12. As the SA has not considered the provision of new development in Ash as an alternative, it cannot be considered that the SA justified and consequently the Local Plan is unsound.

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<sup>4</sup> DDC, Local Development Scheme September 2022

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## Issue 5 – Strategic Flood Risk Assessment

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

- 2.13. DDC has prepared a Level 1 and Level 2 Strategic Flood Risk Assessment (SFRA). Site Specific Guidance was provided as part of Level 1 in March 2019. As part of the Level 2 SFRA, a Sequential Approach to Site Selection (SASS). The Environment Agency<sup>5</sup> explains that LPA's require an up-to-date SFRA to make policies and decision about the type and location of development.
- 2.14. The Level 1 SFRA supported the R18 Local Plan in January 2021 and the Level 2 SFRA supported the R19 Local Plan. The R18 Local Plan set out housing and employment allocations and thus, the Council's Site Selection process took place by January 2021. The Level 1 SFRA was completed in March 2019 and hence, the Council would have been aware of the areas at a high risk of flooding. Despite this, the Council proceeded to allocate vulnerable development within areas of high flood risk when there are suitable alternatives outside of Flood Risk Zones such as ASH006. The site allocation process should have been informed by the up-to-date SFRA including Level 2. As such, it is considered that the allocation of potential sites at R18 stage was too early and were not fully justified with regards to flood risk. This may have led to other suitable sites being discounted too early in the process and the Council needing to justify sites within the Flood Zone through the Exception Tests.

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### ***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?***

- 2.15. The SASS was published in May 2022 prior to the consultation of the R19 Local Plan. As explained in paragraph 2.14 of this statement, the Council's preferred allocations were set out in the R18 consultation document, prior to the collation of the flood risk evidence. Hence, sites within areas of high flood risk were not assessed against up-to-date evidence.

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<sup>5</sup> The Environment Agency Guidance [ONLINE], 'How to prepare a strategic flood risk assessment', Updated 31.03.2022



2.16. Further paragraph 2.15 of this statement, The PPG<sup>6</sup> details the purpose of the Sequential Test as:

*“The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account.”*

2.17. The Level 2 SFRA and SASS, consider the flood risk effecting the allocated sites detailing that 16 sites fall within Flood Zones 2 and/or 3 and 6 sites within Flood Zone 1 with a high chance of Surface Water Flooding (accommodating approximately 1,215 dwellings). Of these sites 14 were subject to the Exception Test.

2.18. Paragraph 31 of the SASS explains that the sites within Flood Zones 2 and/or 3 were identified for specific reasons (such as previously developed land). Whilst these reasons are acknowledged, there is not clear alternative assessed to allow the Council to steer new development to areas with the lowest risk of flooding. Nor has it assessed how an alternatives could provide wider sustainability benefits to the community that outweigh the flood risk<sup>7</sup>. For example, several of the site in flood risk areas are located in Dover whereby no affordable housing is required in accordance with policy SP5 due to the viability of development in these areas. The Viability Assessment<sup>8</sup> has made an additional allowance for costs such as flood prevention measures at waterside locations but does not acknowledge the additional costs for sites within flood risk zones. Therefore, there is a risk that additional flood mitigation costs will result in these developments becoming undeliverable or reduce the number of affordable homes delivered.

2.19. Neither the Level 2 SFRA or the SASS considered alternative locations for the development to be located. Whilst briefly considered within the SA as part of the site assessment of SA Objective 7, the SFRA and the SA are not coordinated. As such, it is not considered that the LPA has sufficiently considered alternative options to locate development outside of Flood Zones.

2.20. Based on the above considerations, the benefits provided by Sites outside of high risk flood zones should have been assessed in greater detail including the assessment of additional sites in Ash.

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<sup>6</sup> Planning Practice Guidance, Paragraph: 024 Reference ID: 7-024-20220825, dated 25.08.2022

<sup>7</sup> The Environment Agency Guidance [ONLINE], 'How to prepare a strategic flood risk assessment', Updated 31.03.2022

<sup>8</sup> GEB08a Whole Plan Viability Study, November 2020

### 3. Conclusion

- 3.1. This Examination Statement is written on behalf of BDW with regards to the Land at Sandwich Road, Ash. It has answered questions raised by the Planning Inspectors under Matter 1 (Legal Compliance), Issues 3 (Sustainability Appraisal) and 5 (Strategic Flood Risk Assessment).
- 3.2. Concerns have been raised regarding the SA's assessment of reasonable alternatives. Particularly, it is considered that the provision of housing in Ash, in addition to the Neighbourhood Plan allocations, has not been fully assessed to understand the affects. Furthermore, there does not appear to be a growth/spatial option that allows for the Council's identified affordable housing need to be provided. As the SA has not considered reasonable alternatives, the SA cannot be considered justified.
- 3.3. The emerging Local Plan allocates several sites within areas of high flood risks. BDW has made observations about the process and timing in which these sites were allocated. Additionally, alternative sites outside of flood risk zones have not been detailed within the Sequential Approach to Site Selection.
- 3.4. Alternatives sites are suitable, achievable and available to accommodate the identified housing and employment need. Ultimately, the Local Pan has not consider the reasonable alternatives in relation to growth, spatial options and site selection.

