

## **DDC Local Plan – Examination in Public**

### **Hearing Statement from STM010 Residents' Group and Salisbury Road Residents' Group**

This hearing statement is submitted by Mr. Gerald Irvine on behalf of the STM10 Residents' Group (135 members) and Mr. Gary Muirhead on behalf of the Salisbury Road Residents' Association (81) members. Each of these groups has responded previously to consultation on the Regulation 19 draft of the Dover District Local Plan, and the names and addresses of members have previously been supplied to the Council. This statement addresses only the specific questions which the inspectors have raised in document ED14 in relation to site STM010 at the Droveaway in St. Margaret's at Cliffe, which is allocated in Policy SAP40 of the Local Plan for housing development. The inspectors are referred for the full arguments of these groups objecting to this allocation to their original consultation responses.

*Q1 Does the site allocation represent major development in the AONB, and if so, is it justified? How have the potential impacts of development on the character and appearance of the area, including the AONB and Heritage Coast, been considered, having particular regard to the topography of the area?*

In our view, the site allocation does represent "major development" in the AONB. Paragraph 177 of the National Planning Policy Framework states that this should be determined by taking into account "its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined." Housing development at the scale proposed at the elevated location of this extremely sensitive setting will be highly visible for long distances. It will have a significant adverse impact on the appearance of the surrounding landscape, severely damaging the characteristics for which it has been designated an Area of Outstanding Natural Beauty.

The SHLAA assessment of the site which was carried out by the Council in 2012, in the course of preparing for the current Local Plan, pointed out that the site, then known as SAM28, is located in the AONB in a highly visible location at the top of a hill on a plateau, and stated that "any development on the site would, therefore have a highly detrimental impact on the designated landscape." For this reason, it was not considered for inclusion in the Submission Document for the 2015 Local Plan. There has been no material change to this landscape or its surroundings since the assessment in 2012 which would change this judgement. The proposed allocation should therefore be treated as major development.

Paragraph 177 states that in AONBs, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of: a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.

As argued in our previous response to consultation, there is no pressing need for this development, nor will refusing it have any material impact on the local economy. The need for housing in Dover District can be met on many more suitable sites at no greater cost. The detrimental effects on the environment, the landscape and recreational opportunities which would result from development of this site are set out in detail in our consultation response, and in those of many other people and organisations, and the inspectors are referred to

those. In the light of these considerations, the development of this site would not be in the public interest and is not justified.

The site is also within the area of a Heritage Coast. Paragraph 178 states that “major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.” In our view, the proposed allocation for housing is not compatible in any respect with the special character of the Heritage Coast in this area, again for the reasons stated in our consultation response. We would endorse the view of the National Trust in their consultation response that insufficient consideration has been given to the site’s status as defined Heritage Coast: as that response states, “The site has an elevated position within the landscape and any development in this location would be visually intrusive when viewed from the north back towards the village and it is considered that development here will have an adverse impact on the undeveloped coast.”

We do not consider that the potential impacts of development on the character and appearance of the area, including the AONB and Heritage Coast, have been properly or thoroughly considered by the Council in the decision to allocate this site for housing, particularly with respect to the specific topography of the area. Our detailed arguments on this point, and our examination of the defects in the Council’s assessment of these issues, are fully set out in our consultation response. See also the consultation response submitted on behalf of the Kent Downs AONB unit, which points out that an assessment of the site which regards it as being an appropriate extension to the village, and acceptable in landscape terms, “fails to take into account a key aspect of the site; its topography. The site comprises a mound of higher ground that rises significantly above the surrounding land levels (at least 4 metres), up to a high point of 90m AOD, which is by far the highest point within this part of St Margarets and some 5 metres higher than the ground level of the War Memorial monument sited north east of the proposed allocation.”

The assessment carried out as part of the SHLAA in 2012 gave proper weight to this topography in its assessment of the landscape impact, and in our view, the Council should be asked to explain why the most recent assessment differs so significantly from the earlier one. There have been no changes to the character and appearance of the area since that time which would reduce the adverse impacts of development on this site as identified in that assessment, or which would render any proposed mitigation measures more effective.

(It may be perhaps that the error made in the assessment of STM010 in the Housing Site Assessments of HELAA 2022, where it is described as being “**adjacent** to the AONB and Heritage Coast”, instead of wholly within both these designated areas, has been perpetuated in the Council’s subsequent considerations, which could explain this otherwise puzzling change of approach.)

The Council has stated in its response to the inspectors’ initial questions that it “has sought to preclude development in the AONB where...it would not conserve and enhance the landscape and scenic beauty of the AONB”. However, no evidence whatsoever has been produced to show that the development of STM010 for housing would comply with this primary requirement of both law and policy - **that it should conserve and enhance the landscape and scenic beauty of the AONB**. It is indeed difficult to imagine how such development could possibly produce this outcome. For this reason alone, its allocation should be deleted from the Plan.

*Q2 How have the effects of development on the integrity of the Dover to Kingsdown Cliffs SAC and SSSI been considered as part of the plan-making process? What mitigation, if any, is required?*

We do not consider that these effects have been given sufficient weight, or properly considered, by the Council in the plan-making process. We would endorse the comments on this issue which were made by the National Trust in its consultation response. Although we strongly contend that this site should not be allocated for development, we agree with the Trust that if it is so allocated, the policy wording should be amended to require an assessment under the Habitats Regulations as follows: "Due to the scale of development and close proximity to the Dover to Kingsdown Cliffs SAC and site of SSSI, a project level HRA is required. The HRA should consider the potential impact pathway of significantly increased recreational pressure and the relevant avoidance or mitigation measures required in line with Strategic Policy SP13."

*Q3 What is the justification for requiring a speed survey? Is it clear to users of the Plan what is required from development proposals?*

We cannot trace any reference to a requirement for a speed survey in either the original or the amended versions of that part of policy SAP40 which relates to site STM010. Could this perhaps have been transposed from the requirement for a speed survey in the section of policy SAP40 relating to site STM006?

*Q4 Can a safe and suitable access be achieved for both vehicles and pedestrians? How has this been assessed as part of the allocation of the site? Where will access be taken from?*

We do not believe that a safe and suitable access can be achieved for this site. The access and ownership constraints are fully discussed in our consultation response, in that of Mr. Neil Buckley, one of the owners of the property adjacent to STM010, and in many of the responses from the owners of properties in Salisbury Road, notably the response from Mr. Gary Muirhead representing residents of Salisbury Road collectively. Please see these responses for full details. Briefly, Salisbury Road is a private unadopted road, and its residents, the collective owners, are not prepared to allow access for any development on STM010. So far as any access from the Drove way is concerned, the promoter of the site does not own any part of the strip of woodland and hedgerow which separates the site from the Drove way, and so far as we are aware, cannot establish any right of access from that road to the site.

In our view, the Council has not given proper consideration to this important issue, as is evident from the confusion appearing in two different documents prepared after the Regulation 19 consultation was completed. The revisions to policy SAP40 in the Schedule of Additional Modifications (AM67) refer to development on the site "being located in the lower part of the site along the road frontage with the Drove way only", implying that access should be from the Drove way. However, in document ED3 (Selection of Site Allocations Housing Sites Addendum April 2023), it is stated in relation to STM010 that "Development of the site would provide a logical extension to the settlement with development proposed to be confined to the street frontage of Salisbury Road."

Although the Council subsequently verbally implied to Mr. Muirhead that the reference to Salisbury Road was a clerical error, such an error is a clear indication that the issue of access has never been properly assessed by the Council in the allocation process. As pointed out in our consultation response, the serious and unanswered questions relating to this aspect of the proposed development, and the well-documented obstacles to obtaining a

safe and suitable access, mean that the site is unachievable, undeliverable and should not be allocated for development.

*Q5 How have the effects of development on the setting of heritage assets such as the Grade II\* listed Dover Patrol War Memorial and the St Margaret's Bay Conservation Area been considered? Can a suitable scheme be achieved on this site whilst maintaining the significance of these heritage assets?*

We do not consider that the Council has sufficiently considered the effects of development on the setting of heritage assets such as the Grade II\* listed Dover Patrol War Memorial and the St Margaret's Bay Conservation Area, and we have set out in detail in our consultation response the damaging effects on these settings that we believe any housing development on the site will inevitably involve. For the reasons set out in that response, primarily relating to the topography of the site, we believe that it is not possible to mitigate those damaging effects to any significant degree. It is therefore our view that no suitable scheme could be achieved on the site which would preserve the significance of these important heritage assets. In support of our views, we would refer the inspectors to the views of the National Trust, Kent Downs AONB Unit and Parish Council of St. Margaret's at Cliffe on these points, as set out in their consultation responses.

*Q6 What is the justification for the suggested changes to Policy SAP40? Why are they necessary for soundness?*

It appears that the suggested changes to Policy SAP 40 were made by the Council to take into account the numerous well-founded objections to the allocation of this site made by ourselves and many other people and organisations in the course of consultation on the Regulation 19 draft of the plan. However, all these amendments could and should have been included in the initial version of the policy, and the fact that such extensive revision was thought to be necessary demonstrates clearly that the Council's previous consideration of the merits and constraints of this site was inadequate.

As we have previously pointed out, the site was not included as a selected site for housing in the published Regulation 18 document, only as one which had been considered and rejected. There was effectively no proper consultation on this allocation before it was included in the Regulation 19 draft. This meant that the Council did not have the benefit, when preparing that draft, of representations from local people or organisations on the many important considerations which it should have taken into account in deciding whether to allocate it.

We would suggest that the Council's rather cavalier approach to the consideration of this site may also again stem partly from the original mistake in the Housing Site Assessments of HELAA 2022, which failed to identify that the site was in the AONB. The wording in the Regulation 19 draft of Policy SAP 40, which does not clearly state that the site is in the AONB, but only talks about mitigating the impact of development "on the AONB", suggests that this error might have persisted. By contrast, site STM006, dealt with in the same policy, is specifically referenced as being "in the AONB".

The changes to Policy SAP 40 are not sufficient to justify the allocation of this site for housing. Even if effectively enforced, the fulfilment of these requirements could not sufficiently mitigate against the severely damaging impact of development on the site, for reasons specific to this site which are explained above, and in our consultation response. We therefore do not consider that the amendments render this policy sound.

As to enforcement, our collective experience of asking the Council to enforce planning requirements on other sites in the past few years has been deeply unsatisfactory. Whilst we understand the financial and resource constraints which have produced this outcome, we would urge that the level of risk arising from the practicalities of this situation should be taken into account by the inspectors. If the suggested conditions could not be enforced for whatever reason, the protection which they are attempting to afford to the character and appearance of the AONB will be nugatory, and the damage will be irrecoverable. The only sure way to protect these vital interests is to delete the allocation of STM010 from the Plan.