

Personal Statement (SAP40) STM010 Arising In Response to ED14 Questions

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I am writing this statement to answer the inspectors' specific questions raised on Page 27, document ED14. I am represented on the Droveaway Resident and Salisbury Road Association combined submitted statement and am one of the two named submitters. The answers below are to questions posed by the Inspector and to augment the group statement submission.

SAP40 St. Margaret's-at-Cliffe small housing sites

Question 1

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?

Answer 1

The NPPF September 2023 version under Annex 2 Glossary defines and informs me that –

“Major development – For Housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

STM010 is detailed in the proposed local plan of being for 10 or more homes and on a site in excess of 0.5 hectares and so would, without qualifying footnotes 60 & 75, qualify as major development. All the remaining selected sites in the Parish of St. Margaret's at Cliffe lie within the AONB and have similar properties.

It is not possible to definitively answer this question without knowing the intention of Parliament as to why the qualifying footnotes were appended to the policy? Were they appended to afford greater protection to the AONB for proposed developments of less than 10 dwellings or were they added to enable LPA's to build mega-cities in the AONB without challenge? This knowledge does not lie within the NPPF or is available to me. If the former, it would be irrational that the areas of greatest importance may be afforded lesser protection than a “brownfield” site.

The LPA has the authority to assess any development as minor or major after it has been deemed that exceptional circumstances in the public interest exist to justify development. The LPA's decision to justify development must then be based in the local context on the significance and facts of the individual site. However, it must, under the policy guidance consider very many factors in its assessment and resulting decision. Some LPA's list between 45 and 50 such factors in their policies.

There is no evidence of these factors being evaluated other than by subjective desk top methodology. DDC have defined their methods in their response to submissions as by “evidence and professional judgement”. There has been no comprehensive assessment.

On the balance of probabilities, it is very likely that the significance of the site within its contextual setting would be deemed a “major development”.

There exists no exceptional need to build on site STM010. DDC's housing projection figures revealed from the Inspectors' questions show a very adequate "land bank" for housing. The projected housing requirement has more than halved. In "light" of this it would be irrational for DDC to claim an exceptional need and seek to develop this windfall site. When viewed in this light this question does not arise as exceptional needs and circumstances do not exist. Should such need arise in future in the AONB, DDC as LPA should set out the parameters for consideration for reasons of "openness" and "transparency" in a local policy.

Question 2

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?

Answer 2

Site STM010 under –

Para 172, Coastal Change has certain criteria to meet. These include landscapes and access. The cliff path along the Leas has suffered numerous chalk falls of 5 – 7 metres inland from the cliff edge in my experience since 1980. In places 2 or 3 more similar falls of similar magnitude in one place will bring closure of the Leas. The pedestrian access along the Heritage Coast will be diverted inland. The only mitigation possible is to ensure that many other routes remain open and that they are not obstructed by development.

"Para 180 (b) development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permittedunless there are wholly exceptional reasons ...etc." DDC have listed no exceptional reasons throughout this local plan for any windfall sites in the AONB and in particular STM010.

Para 197 sets a high bar for the SSSI and AONB which has not been surmounted by any evidence submitted by DDC to date.

Question 5

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?

Answer 5

Para 194 (revised NPFF) advises DDC to require an applicant to describe the significance of any heritage assets affected, including any contributions made by their setting. Paras 195 to 208 give further guidance. Para 199 & 200 are significant in that they strongly advise against not just actual harm but harm or loss of significance within the setting and in such cases such damage would be exceptional and need the strongest compelling arguments, normally arising from a national need to proceed. Windfall housing on site STM010 does not meet such criteria.

Question 6

What is the justification for the suggested changes to Policy SAP40?

Why are they necessary for soundness?

Answer 6

I am not certain of the suggested changes referred to in this question and am answering to those in the HELA table 2.7 and the accompanying narrative below from ED3 – April 2023.

“STM010 (SAP 40) Land located between Salisbury Road and The Droveaway – 10 dwellings. The site was added as one of the new housing allocations in the Regulation 19 Local Plan, following the Targeted Call for Sites undertaken at Regulation 18. The site was best performing in the SA assessment. The site comprises agricultural land with an area of trees in the southern corner and forms part of the AONB and Heritage Coast. The site is partly enclosed by hedgerows and existing residential development but is more open to the north-east, where it connects with the wider AONB and Heritage Coast. ED3 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, most of the site would remain as landscape buffer.”

There is no justification for the changes to the HELA table which allocates STM010 to pole position of the four remaining sites in contention. As described above this site is adjoining an SSSI, is an SAC, is in the Heritage coast, is within the AONB and not just connecting and next to a listed National monument. It is also outside the settlement confines. Such factors deny any justification and this plan remains unsound. Even the access road does not correspond with earlier SAP40 details of access. Other errors exist but they have not been refuted or confirmed by DDC. They demonstrate, even amplify, the compounded errors inherent in DDC’s “desk-top” planning methodology. If these are the questioned changes they serve no demonstrable purpose.

Ongoing planning legislation changes in the form of the passage of the Regeneration and Levelling Up Bill and the revised September 2023 NPPF changed under its provisions during the inception stages of this Local Plan have only strengthened the protection of the AONB and all associated inter-national, national and locally designated sites. This new legislation in all its forms confirms and reinforces the arguments expressed by myself in my statements throughout the development stages of this local plan. The test for soundness has not been met.