Examination of Wealden Local Plan

Dandara Ltd Hearing Statement for Matter 1: Legal Compliance, including Duty to Cooperate

1.1 This Hearing Statement has been prepared by Dandara Ltd in response to the MIQs raised by the Inspector for Matters to be discussed in weeks one and two during 21st to 30th May 2019. This Hearing Statement should be read alongside Dandara Ltd’s representations to the 2018 Submission Version Wealden Local Plan (Regulation 19).

1.2 This Statement will only address MIQs that relate to Dandara Ltd’s representations to the Regulation 19 Plan with specific focus on;

- Matter 1: Legal Compliance – Sustainability Appraisal
- Matter 1: Legal Compliance – Duty to Cooperate

1.3 It should be noted that Dandara Ltd is a member of the Ashdown Forest Stakeholder Forum (AFSF). Separate Hearing Statements have been prepared and submitted by Savills on behalf of the AFSF. This Hearing Statement does not therefore seek to replicate the representations made on Dandara’s behalf in the AFSF’s Statements but provides supplementary responses to the MIQs in relation to Dandara Ltd’s specific concerns.

Issue 1: Whether the plan has been prepared in line with the relevant legal requirements and procedural requirements?

Sustainability Appraisal – Question 8

1.4 PPG advises that “the Sustainability Appraisal needs to compare all reasonable alternatives including the preferred approach ... the development and appraisal of proposals in Local Plan documents should be an iterative process, with the proposals being revised to take account of the appraisal findings” (para: 018, ref ID: 11-018-20140306).

1.5 The Sustainability Appraisal (SA) does consider some reasonable alternatives with regards to development and spatial strategy, though those it does consider have not been on a like for like basis. A number of options considered and rejected within the SA included land on the Edge of Tunbridge Wells, with no Scenario N – no additional homes on the Edge of Tunbridge Wells being the chosen preferred approach. The SA concludes that this is on the basis that development would contribute to nitrogen levels and deposition on the Ashdown Forest SAC nor does it meet housing need. As detailed within our Regulation 19 representations, this is despite Tunbridge Wells being the top of the settlement hierarchy within the Wealden District Plan (WDP) and the references within in both the Plan and the evidence base as to the strong interrelationship between Tunbridge Wells as a regional centre and Wealden district. This conclusion is also contrary to the potential sites which raise cross boundary issues identified with the updated Duty to Cooperate and detailed further below.
1.6 Whilst the SA Addendum (2019) has tested two additional Scenarios O and P, this has again not been on a like for like basis, likely due to these options already been excluded as reasonable alternatives. Scenarios O and P were tested solely on the basis of increased housing numbers to that proposed by the WDP and there has been no consideration to further testing of alternative spatial strategies. Scenario O within the SA Addendum is based on housing growth set out within Scenario C within the SA though delivered over a shorter time period. This scenario did include land on the Edge of Tunbridge Wells however, like all of the scenarios tested within the SA which included growth at the Edge of Tunbridge Wells, this was on the basis of a spatial approach delivering greater growth in the south of the District. It is evident that neither the SA nor SA Addendum have sought to test a scenario which would provide growth on the Edge of Tunbridge Wells and/or north of the District rather than growth being weighted to the south. Given the significant inter-relationship between Tunbridge Wells, at the top of Wealden’s settlement hierarchy, and the rest of the district such scenario should have been considered as a reasonable alternative to provide sustainable development in proximity to a main settlement that the WDP acknowledges the district relies on for infrastructure and employment. Given the Council’s view on the impact of traffic on the Ashdown Forest (noting that is this objected to by the AFSF and others), testing scenarios of greater development growth in closer proximity to the main regional settlements relied on by the district is a reasonable alternative which should but has not been considered.

1.7 It cannot therefore be concluded that, despite additional scenarios being tested within the SA Addendum, all reasonable alternatives have been considered in terms of strategy, policies and sites nor that reasonable alternatives have been considered on a like for like basis.

**Duty to Cooperate – Questions 9 -17**

1.8 Para. 178 of the 2012 NPPF is clear that LPAs have a duty to cooperate on planning issues that cross administrative boundaries, particularly in respect of the NPPF ‘strategic priorities’ set out in para. 156 which includes housing. Para. 179 advises that “Local Planning Authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly co-ordinated and are clearly reflected in individual Local Plans”. It reiterates that “Joint working should enable Local Planning Authorities to work together to meet development requirements which cannot wholly be met within their own areas ...”.

1.9 PPG recognises that the Duty to Cooperate is not a duty to agree but “... Local Planning Authorities should make every effort to secure the necessary cooperation on strategic cross-boundary matters before they submit their Local Plans for examination”. It goes on to state that Local Planning Authorities will “... need to bear in mind that the cooperation should produce effective and deliverable policies on strategic cross boundary matters” (para. 001, ref ID: 9-001-20140306).

1.10 It is maintained that Wealden District Council has not sufficiently co-operated with relevant planning authorities in the planning of relevant cross boundary strategic matters, specifically in relation to both housing market issues and environmental issues associated with the Ashdown Forest, which have had a subsequent impact on OAN and spatial strategy.
1.11 As explained in detail within Section 3.0 of our Regulation 19 representations, Dandara Ltd has significant concerns that the wider housing market area, and in particular the relationship with Tunbridge Wells as the regional centre, has not been considered as a significant strategic cross boundary issue which has limited the effectiveness of the policies within the WLP to deliver sustainable development. In the respect of housing issues, the Duty to Cooperate Background Paper identifies that Tunbridge Wells forms part of the housing market area (HMA) however the Duty to Cooperate appears only to have focused on housing need and whether there are identified shortfalls within neighbouring authorities rather than considering the implications of spatial strategy across the HMA. This is of significant importance in relation to Tunbridge Wells given the settlement boundary of the town directly abuts the Wealden District Authority area, effectively restricting growth of the town to the south without cross boundary cooperation.

1.12 Our Regulation 19 representations demonstrated the emphasis made throughout the draft WLP of the relationship between the district and Tunbridge Wells. This is further expressed in the updated Duty to Cooperate Background Paper (January 2019) where at Para 6.69 the strong housing, employment and retail links between Wealden district and Tunbridge Wells are again identified.

1.13 Despite the updated Duty to Cooperate Background Paper providing further details on the engagement that took place between various local authorities it does further demonstrate that strategic cross boundary matters have not been ‘properly coordinated’ as required by Para. 179 of the Framework. The Framework is clear that joint working is expected on areas of common interest (Para. 178), strategic priorities across local boundaries (Para. 179) with Para. 156 confirming that this includes the homes and jobs an area needs and the conservation of the natural environment, in addition to other strategic priorities. The Duty to Cooperate Background Paper provides clear evidence that the Council’s engagement has been dominated by the environmental issues predominantly relating to the Ashdown Forest SAC/SPA. Duty to Cooperate is of course not a duty to agree but it is clear within the Background Paper that housing issues have been limited and the cross boundary relationship between the district and Tunbridge Wells as a regional centre relied to provide infrastructure and employment to the district has been given little consideration.

1.14 Table 6 within the Duty to Cooperate Background Paper clearly demonstrates this. Providing details of the meetings that took place with Tunbridge Wells Borough Council (TWBC) over a four year period, only the last meeting on 11th June 2018 provides any reference to cross boundary issues in relation to the edge of Tunbridge Wells with the outcomes summarised as ‘no requirement to meet unmet needs, owing to lack of sites on Tunbridge Wells border, no particular issues regarding infrastructure. Sites on the edge of Tunbridge Wells are being considered as part of Tunbridge Wells Local Plan with potential cross boundary issues’. The summary itself is clearly contradictory by stating that there is both a lack of site on the Tunbridge Wells border as well as sites under consideration with cross boundary issues.

1.15 TWBC 139 and 140 of Appendix TWBC provides details of the correspondence between TWBC and WDC confirming the need to discuss wider matters than the Ashdown Forest, which included the requirement for cross boundary infrastructure, Spratsbrook Farm (the site being promoted by Dandara Ltd as set out in our Regulation 19 representations) including a possible secondary school and other sites on the edge of the Tunbridge Wells. There are no minutes or further commentary from this meeting provided within the updated Duty to Cooperate Background Paper to confirm that the outcomes detailed in Table 6 were agreed between
both parties. Notwithstanding, it is clear that sites on the edge of Tunbridge Wells with potential cross boundary issues remains an outstanding issue. Despite this the Duty to Cooperate Background Paper does not provide any further detail on meetings or discussions on this cross boundary issue since June 2018. It cannot therefore be concluded that the Council has cooperated constructively, actively and on an on-going collaborative basis.

1.16 The relationship between Tunbridge Wells as a regional centre and Wealden district, including the potential for growth at the edge of Tunbridge Wells, is a cross boundary matter of strategic significance which has been identified through the Duty to Cooperate but has not been addressed. The result of this being that the proposed policies are not effective as they do not result in a spatial strategy which acknowledges and supports the strong relationship between Tunbridge Wells and Wealden district and promotes sustainable development. It can only therefore be concluded that there are strategic matters which have been not been adequately concluded on a cross boundary basis.