

**DARTFORD BOROUGH COUNCIL  
DARTFORD TOWN CENTRE AREA ACTION PLAN (AAP)**

**NOTE OF EXPLORATORY MEETING HELD AT DARTFORD CIVIC  
CENTRE ON TUESDAY 9 DECEMBER 2008 AT 2pm**

**Introduction**

1. The Inspector, Michael Hetherington, introduced himself and the Programme Officer, Simon Osborn. He explained that Mr Osborn is acting as an impartial officer, under the Inspector's direction, rather than as an employee of the Council. He is the first point of contact for all queries about how the examination is progressing.
2. The **Council's** team introduced themselves to the meeting: Mr Rob Scott (Director, Regeneration Directorate), Ms Teresa Ryszkowska (Planning Policy Manager) and Mr Paul Buckley (Senior Planning Officer, Policy). Also at the table was Mr David Paine from the **Government Office from the South East** (GOSE).
3. The Inspector explained that the fact that he is holding an Exploratory Meeting does not mean that he has already reached the view that the AAP is unsound. However, he has already set out a number of serious concerns about the AAP in a letter dated 5 November 2008. The Council has responded to these (in a letter dated 18 November 2008). Copies of both letters have been made available. The Inspector explained that this meeting offers the chance to discuss the Council's response in more detail. It also allows the consideration of possible alternatives to the examination programme. He stressed that he would not be hearing any evidence at this meeting and that he would not be presently finalising dates for the hearings and pre-hearing meeting (PHM).
4. The Inspector noted that the PHM had not yet been advertised. He urged the Council to keep Mr Osborn informed about any changes to what has been agreed in respect of the examination programme.

**Inspector's Initial Concerns**

**General Comments**

5. The Inspector explained that he had a number of comments to make in respect of the Council's letter of response – and invited additional comments on the matters raised. In response to the Council's request, he addressed the matter of the Northern Gateway site ahead of the sequence set out on the agenda.
6. However, he began by making some general comments about the nature and scope of the concerns that he had raised. For the avoidance of doubt (and as mentioned in his letter of 5 November), he confirmed that these comments did not amount to the full list of questions that he will be posing about the AAP. These will be set out in more detail later on; it is intended that a draft would be available at the PHM. He added that while the comments that he has made relate to what appear to be the most serious matters on the basis of the evidence presently before him, it should be remembered that all of the matters and issues that he will raise potentially bear upon the AAP's soundness.
7. The Inspector added that it was a theme of the Council's response that further information is available or that further work will be carried out. In his view, this in itself calls into question the plan's soundness – the AAP should flow from the evidence base; not the other way round. Frontloading is an important part of the examination process. However, he clarified that he intended, where possible, to take a pragmatic approach in this regard. If necessary work has been carried out (or can

be carried out) in support of the AAP, then he had no objection to it being submitted as part of the examination process – subject to two important caveats.

8. First, any such evidence would need to be submitted in good time – certainly before the hearings. This is so that he can review it and that it can be made available to other parties who may wish to comment upon it or add to their responses in that regard. He added that although there has been some slippage (and subject to the Council's response in respect of the matters set out below), it was presently his aim to hold the hearings as soon as he could. The end of January 2009 had been previously suggested. However, in view of the slippage in arranging the PHM, a date in March 2009 may be now more realistic.
9. Second, the Inspector stressed that it would not help the Council's case if newly submitted evidence does not support the AAP as submitted. As the Council will be aware, his ability to consider changes to the AAP is limited. If the outcome of additional work is that major changes are required to the AAP then the Inspector advised that it may well be better for the Council to seek the Secretary of State's agreement to withdraw the document.
10. In response to a comment by the Council, the Inspector clarified that (with the exception of PPGs/PPSs) the fact that any particular document is already available on the internet did not mean that it could be assumed that it was part of the examination documents. If the Council or any other party wishes to make reference to a document then it should be submitted as part of the evidence package. Details of how evidence is to be arranged and made available will be addressed at the PHM.
11. In response to a comment by the Council about current economic conditions, the Inspector referred to his response that had previously been forwarded to the Council, namely: "While there is no specific PINS policy stance in relation to the current economic circumstances, the Council should bear in mind that the AAP is intended to cover the period up to 2026 and, as such, should take a medium to long term view in respect of its policies, proposals and underlying assumptions. In the first instance, I would expect the Plan's evidence base to reflect normal market conditions. Clearly, I have concerns on that matter irrespective of current economic circumstances. These concerns should be addressed. However, it would be appropriate for certain parts of the evidence base (for example that dealing with the viability of particular sites - if the Council does intend to submit further evidence on this point) to consider the implications of revised economic assumptions. I would also expect the Plan's provisions to show how changing circumstances can be accommodated. It should be remembered that it is a requirement of PPS 12 (as part of the effectiveness test) that DPDs must be flexible - see paras 4.44 and 4.46 of that document". Mr Paine (GOSE) added that it was expected that any DPD should have adequate contingency built into it in this regard.

## **Northern Gateway**

12. The Council explained that unexpected circumstances have arisen with regard to this site in the last two weeks. An important landowner (GSK), with landholdings both within and outside the AAP area, has announced that it intends to withdraw completely from Dartford and close the site. The assumption in preparing the AAP was that the southern part of the site would be made available for development, with operations consolidated on the northern part of the site. Complete withdrawal has the potential of, first, removing a potential constraint on that part of the site within the AAP area imposed by the existence of hazardous substances and, second, in allowing a wider range of redevelopment options to be considered. The Council is currently holding talks with GSK in this regard: as part of this process it is also considering its options as to how to deal with the two parts of the site. One option is to seek to remove that part of the site within the AAP boundary from the AAP and progress it jointly with the remainder of the GSK land through the emerging Core

Strategy (CS). In the Council's view this site is reasonably self-contained and its removal would not be fatal to the AAP's general aims for the town centre. Another option is to proceed with the AAP as submitted.

13. It emerged, in response to a later question from Mr Lloyd, that the Council was also considering (in principle) the options of either expanding the AAP boundary to include the additional parts of the site or reducing the AAP area to exclude the site. The Inspector responded that an amendment to the AAP boundary would, in his view, be likely to comprise a major change to the AAP: this should be resisted. Expansion of the AAP area would have particular procedural implications. He added that any change involving the deletion of the Northern Gateway proposals would need to be considered in the light of this site's stated importance in delivering the AAP's objectives. He reminded the Council that the urgent need to progress development on this site was one of its main justifications for bring the AAP forward in advance of the CS.
14. The Inspector also expanded on his other concerns about the AAP's proposals for this site. He stated that while the suggested financial viability assessment would be a useful addition to the evidence base, along with any further information from Kent County Council about its school requirements, the deficiencies that he had identified related to the site's viability in respect of normal market conditions. He would want to explore the viability of the package for requirements set by the AAP – including its flexibility. He noted that some respondents did not agree with the Council's view that adequate flexibility is provided by the existing policy wording.

#### **Absence of Core Strategy (CS)**

15. While he appreciated that the revised version of PPS 12 had emerged late on during the AAP's preparation process, the Inspector reminded the Council that the CS is the principal DPD. It should contain the overall vision which sets out how the area and places within should develop – as well as a delivery strategy. It is where the clear spatial choices are made about where developments should go in broad terms – to reduce the work involved in subsequent DPDs.
16. The Inspector accepted that in principle an AAP can be found sound in the absence of a CS. But, as set out in his letter, there are several cases where the AAP contents (and indeed its evidence base) derive, in effect from the CS. One example is the sequential assessment of housing sites with regard to flood risk – the submitted sequential assessment document refers to the priority for development being 'in line with the assessment carried out through the CS'. The Inspector explained that his main concern in this context is whether the AAP can be adopted when such matters have yet to be finalised in the CS. A linked concern is whether adoption of the AAP would prejudice the proper consideration of alternatives in the CS. This covers a range of matters – including housing numbers and flooding. While the Inspector accepted that the AAP broadly reflected the priorities for shopping and town centre uses set out in PPS 6, it was not clear to him how the overall distribution of such development between Dartford Town Centre and other centres in the Borough had been determined.
17. The Inspector noted the Council's comments regarding the Thames Gateway Delivery Plan (TGDP) and CLG support for major developments in the town centre. However, in relation to these matters, he was unsure to what extent the TGDP provides guidance on the balance of development (notably housing) between Dartford Town Centre and the rest of the Thames Gateway area lying within the Borough. He noted that the TGDP is not part of the development plan and that it has the status of a material consideration in planning decisions. Also, the levels of development that it refers to for Dartford Town Centre do not appear to equate to that proposed by the AAP. In response, the Council expressed the view that it did not see any circumstances in which development sites would not be designated in Dartford Town

Centre. Major development is anticipated in the Thames Gateway area. In the Council's view, sites do not exist elsewhere on a sufficient scale to meet the requirements of the emerging SE Plan. The Inspector stated that it would be useful if that could be explicitly demonstrated: at present (as set out below) there are several serious deficiencies in the relevant evidence base.

18. Mr Paine (GOSE) raised concern about the AAP's conformity with other development plan policies, notwithstanding SEERA's finding of general conformity with respect to the RSS. In the absence of an extant Core Strategy, he queried whether the Council had a policy 'hook' in respect of the Structure or Local Plan upon which it can hang the AAP's proposals. He made particular reference to regulations 13(6)(b) and 13(7) in this regard – and suggested that the Council may want to take legal advice in this respect. The Inspector stated that it would be helpful if GOSE could expand on any particular concerns in this regard before the hearing sessions. The Council indicated that it had carried out work on the conformity issue that was not part of the existing AAP evidence base. The Inspector said that he would want to see this.
19. The Inspector went on to make other comments about the Council's response in respect under this heading. In particular, he advised that the site capacity assessments that have now been completed would form a useful part of the evidence base. It would also be helpful to get some clarification of the status of the AAP's housing numbers (estimates, maxima, minima or targets?). However, any substantive change to housing numbers would need to be considered in the light of the Sustainability Appraisal and Appropriate Assessment process. He noted that these do not presently seem to support the total housing numbers proposed by the AAP - or the allocation of business floorspace at Lowfield St. These matters need to be addressed. He also raised concern about the inclusion of affordable housing and strategic transport contributions policies in the AAP. The Council accepted the general point, but noted that these policies are being applied in any event. The Council stated that it did not intend to seek endorsement of the policies through the AAP and suggested that the AAP's wording could be amended to clarify this. The Inspector responded that these requirements were being implemented without the backing of development plan policy. If the details are to be set out in a DPD then (bearing in mind the Blyth Valley judgement) adequate supporting evidence would need to be provided.

## **Evidence Base**

20. In respect of **housing** evidence, the Inspector stated that while the additional evidence suggested by the Council would be helpful, the Council's response did not appear to address his central concerns – which relate to the lack of a finalised housing land availability assessment and the discrepancies between the figures in the submitted interim HLAA and the AAP itself. These matters need to be addressed. The Council responded that the Annual Monitoring Report would soon be available and that updated land availability figures are being prepared – with sensitivity testing in the light of current economic conditions. It gave a similar response in respect of the Inspector's concerns about the **employment** evidence base – which also relate to the lack of a finalised background paper and particular discrepancies between some figures in the interim paper and the submitted AAP. The Inspector emphasised that he needed to know how the Council had arrived at the figures now proposed.
21. The Inspector stated that the absence of any **transport** assessment was, in his view, a serious gap in the AAP's evidence base. This is something that he would expect to see in support of the Plan's development proposals. He restated his key questions in this regard, namely: (1) Can the existing transport network accommodate development of the level proposed?; (2) If not, what measures are needed and how would they be put in place?; and (3) Which of the transport measures contained in the AAP are required to meet the needs of proposed

development and which arise from existing problems or opportunities? These matters will need to be addressed – either in writing or at the hearings. The Council explained that modelling work has been undertaken but that it is not in report form.

22. In respect of **shopping** evidence, the Inspector accepted that local plan policy R1 has not been saved, and he added that he was satisfied with the Council's response to his question about longer term flexibility after 2016. He noted that the Council intends to submit a paper explaining the assumptions that were used to arrive at retail capacity figures. This would be useful. Any additional evidence (eg the KCC study) would be helpful, subject to it being consistent with the AAP. He reminded the Council about the need to be consistent in respect of references to gross and net floorspace. He also asked the Council to consider his more detailed concern about the AAP's terminology in respect of the term 'town centre'.
23. Although not raised in his initial letter, the Inspector raised concern that the submitted proposals map was of an inadequate scale to enable sites to be adequately identified. In addition, it does not appear to meet the requirements of PPS 12 paragraph 8.1. Early consideration should be given to remedying these failings.

### **Lowfield Street Site**

24. The Inspector referred again to the particular deficiencies in the AAP's evidence base in respect of this site. These should be addressed. He also noted that the Council's letter of response suggested that a CPO was needed in respect of this scheme; the AAP as submitted does not indicate this as a necessity.

### **Flooding**

25. The Inspector restated his comment about the need for a sequential assessment of housing sites, which should usually be applied to the whole LPA area (see PPS 25 Good Practice Guide paragraph 4.15). The Council responded that the AAP had been framed in the context of the borough-wide SFRA and its work on the Strategic Housing Land Availability Assessment. These could be provided. The Council's approach was consistent with a recent Environment Agency interim guidance note on PPS 25 and the Thames Gateway. The Inspector asked for copies of these documents. Mr Huxley raised concern about Dartford's past history of flooding.

### **Potential Alternatives to Current Examination Programme**

26. The Inspector outlined the 4 possible outcomes to an exploratory meeting, namely:
  - The outstanding issues are resolved. In view of the preceding discussion, it was apparent that this was not the case.
  - Temporary suspension. This is an option where further work is required on the DPD. However, it is for a short term only, which means 6 months in practice. The Inspector stated that, in principle, he would be happy to agree such a suspension in order for the Council to carry out the work mentioned at this meeting, provided that (1) the work could be completed within the 6 month deadline and (2) that it did not lead to a substantially revised document. In such circumstances, the Council would be better off seeking withdrawal.
  - The Council may seek the Secretary of State's agreement to **withdraw** the DPD. The Inspector clarified that this is a decision, in the first instance, for the Council to make. He added that he was unable at this stage to recommend withdrawal because, among other matters, he has not seen the additional material that the Council has mentioned and is therefore unable to reach a view on whether it is likely to address his concerns. He advised the

- The examination progresses as planned. This is the 'default option'. The Inspector clarified that in such an event, he would endeavour to consider any unresolved main concerns at an early hearing session. If these had not been satisfactorily addressed then, in principle, he may be able to issue a finding of unsoundness without progressing through the remainder of the hearings – with a consequent saving in time and expense. Clearly it would be more acceptable to all parties if his concerns could be addressed satisfactorily.
27. The Inspector emphasised that, in view of the delay that has already occurred to the examination programme, he wanted an early indication from the Council of its preferred course of action. With the Council's agreement, a date was set of **Friday 19 December 2008** for a response to be made to the Inspector through Mr Osborn. In response to a question from **Mr Pope** (Nathaniel Lichfield for GSK) the Inspector clarified that if it is intended to progress the examination at this stage (option 4) then a date for the PHM would be set after the Christmas/New Year break – with a minimum four week notification period.

### **Other Questions**

28. **Mr Huxley** voiced concern about any further delay to the AAP in view of the urgent need to address the town centre's problems. The Inspector responded that he was setting as tight a deadline as he felt able to.
29. **Mr Pope** asked whether a schedule had been prepared of the additional evidence mentioned by the Council. The Inspector said that this was not presently available but that, in the event of the examination proceeding, full document lists would be prepared with details of how these documents could be made available. These matters would be discussed in more detail at the PHM. He encouraged the Council to make full use of the internet in this regard, including (if practical) setting up an examination website.
30. **Mr Lloyd** (CPRE Kent) queried how the Council would address a larger Northern Gateway site (see note above).
31. **Mr Ryan** referred to a current planning application by Tesco for a retail store and houses at Lowfield Street. He raised concern that planning policies were being shaped by current applications, rather than the other way around. The AAP should not, in his view, be dictated by a developer. The Council responded that it had demonstrated a consistent approach to the development of the site over an extended period of time. The application would be dealt with on its merits in the context of existing saved policies. The Council stated that it was intended to determine the application early in the New Year. The Inspector noted that he had not been provided with details of the scheme concerned.
32. The Inspector explained that he would prepare a note of the meeting which would be made available to all parties. Mr Osborn should be the point of contact for further questions about the examination's progress. He thanked everyone for coming and the meeting closed at 16.20 pm.

Michael Hetherington  
Inspector for the Dartford Town Centre AAP Examination  
December 2008