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Dear Mr Lessware

PLANNING FOR HOUSING PROVISION – CONSULTATION PAPER

I am responding on behalf of the Borough Council to the consultation on the Draft revisions to PPG3 entitled “Planning for Housing”.

Overall, and for the reasons set out in more detail below, we found the document to be very confusing and therefore unhelpful. It is unnecessarily complex and repetitive, but worse than that where it repeats itself it sometimes uses different terminology for presumably the same thing.

The whole document seems to be geared towards accelerating the delivery of housing on the assumption that authorities are under-performing in terms of delivery. But there are authorities in the Country, like Tonbridge and Malling, where, principally due to the successful operation of PPG3 in terms of increased densities and high levels of windfall development, Structure Plan requirements have already been significantly exceeded. There is no indication that the Secretary of State regards this as in any way unacceptable, but messages from recent appeal decisions are ambiguous and inconsistent. For example, a recent appeal in Tonbridge and Malling was allowed for 370 dwellings on an employment site which was still likely to be needed for employment purposes even though the Structure Plan requirements for housing up 2011 would be exceeded by 62%. Elsewhere in the Country, appeals have been dismissed where the Structure Plan figures would be exceeded. Such “unplanned” growth can put pressure on services and infrastructure and ultimately lead to the premature release of greenfield land. There is nothing in the guidance that overtly deals with the need to husband land resources in restraint areas where there is high demand. The implication throughout is that the demand for housing should normally be met regardless.

Generally, there appears to be confusion between, and loose use of the words, “need” and “demand”. As I understand the situation, the aim is to meet housing needs but in a way that has regard to the market demand for housing. The first sentence to the Introduction gives quite a different impression. It says that the Government believes that everyone should have a decent home they can afford where they want to live. If the



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planning system was about providing housing where people “want to live” then the Green Belt, National Parks and Areas of Outstanding Natural Beauty would be full of houses.

Whilst it is accepted that market demand must one of the factors to be taken into account in determining the level and distribution of housing, it should not be the main determinant. Planning should be about meeting need and not demand. It should also be about steering demand and seeking to create demand in sustainable locations which are strategically suitable for growth or have the physical and environmental capacity to accept further development. The corollary to this is that there will be places (eg the Green Belt) where it is not appropriate to meet demand in full and that in order to ensure that local needs are met, higher levels of affordable housing are required.

The covering letter says that the consultation document is not about the “overall level of housing growth” but about how it is delivered. Essentially it is aimed at the under-performance of some authorities in delivering housing in accordance with the agreed figures. However, the detail of the document in places gives a different impression. In para 4, for example, it talks about a step-change in housing supply and increasing housing supply where it currently fails to meet demand. This seems to be very much about overall levels of supply rather than just delivery. The whole section headed “Responding to the Housing Market” seems to be about increasing the overall level of housing numbers to take account of the market, rather than just increasing the delivery of housing that is needed.

It is not clear when and how this new guidance would come into effect bearing in mind the current stage of progress on Regional Spatial Strategies and LDFs. The complex processes set out in para 10 will take considerable time to bring into effect. In the South East the RSS is at an advanced stage. If all of the work on the housing distribution had to now be reworked on the basis of housing market areas and be subject to Local Housing Assessments co-ordinated by the Region, then this would give rise to considerable delays in the RSS process with knock-on consequences for the preparation of LDFs. The final version of PPS3 should include advice on the transitional arrangements.

There is a need to define, or set out criteria for defining, Areas for High Levels of New Homes, Areas for Managed Growth, Areas for Low Growth and Areas for Managed Reduction in Homes. The subtle difference between the first three categories, which all involve some element of growth, is not clear. How much growth does there have to be before it needs to be “managed growth”? Would this be expressed in percentage terms or absolute figures? Does it mean growth above a previous trend? Clarification is required because it is fundamental to the approach.

Likewise, the circumstances where figures should be regarded as a “floor” or as a “ceiling” need clarification, as does the appropriate policy response. For example, in para 16(b) there is a reference to the housing trajectory being regarded as a floor above which only limited development would be allowed. This immediately begs the questions “how limited” and “what is the ceiling”, and if there isn’t one what is the point in having a figure at all? How are service providers expected to plan infrastructure under such circumstances? In cases where the figures are regarded as a ceiling, the advice needs

to be clear about what the policy response should be. Will the Secretary of State support refusals of planning permission, even on brownfield sites within urban areas, once the ceiling is reached? If not, what is the point of even talking about “ceilings”?

References to phasing need clarification. As written, it appears to be optional. For example, the Summary on page 18 refers to Local Authorities having “the option to phase land release” and para 30 suggests that authorities “may wish to manage release”. On the other hand, para 45 says that “in managed growth areas local authorities should continue to phase land release to manage the pace of development”. Does this mean that applications can be refused if the planned pace of development is exceeded? The circumstances under which a phasing policy can be applied, and the way in which it should be applied, should be set out clearly in the proposed guidance. In this respect, can the future status of the guidance in “Planning to Deliver” please be clarified.

The process for rolling forward land from future phases also needs to be clarified. Para 42 suggests this should be done through the use of a SPD, whereas para 43 refers to “allocating” sites from later phases, presumably through a formal revision to a DPD, or simply to give planning permission for sites in the later phases. If there is a need to identify greenfield sites it is easy to see how these could be phased for the longer term and only brought forward when brownfield sites within built-up areas can no longer meet the need. But in circumstances, like Tonbridge and Malling, where all allocated land comprises available brownfield sites within built-up areas (ie all equally sustainable), how is an authority supposed to prioritise sites between the various phases?

Para 10 explains the approach to sub-regional Housing Assessments. It should be made clear what happens when a Local Authority falls in more than one Housing Market Area in terms of the district-based housing figures that the guidance indicates will still be provided. It is not clear why the Region would have carry out its own assessment if all of the districts have carried out (joint) assessments in accordance with a programme and protocol agreed with the Region. This seems to be unnecessary duplication of effort which could lead to delay.

We welcome the recognition in para 13 that whilst joint working between authorities on Housing Needs Assessments is the preferred approach, there would be no objection to individual authorities carrying out separate assessments so long as the assumptions and timings were consistent. However, we can see no reason why joint Housing Allocation DPDs need to be prepared. Provided the district housing requirements are based on the sub-regional Needs Assessment, then the delivery of housing in accordance with the identified need can be a matter for the individual districts.

Para 19 suggests that there could be a case for floors and ceilings being applied to different parts of a Housing Market Area. This seems over-elaborate. Parts of any planning area will be subject to restraint for all sorts of good planning reasons and other parts will offer opportunities for development. The scope for growth within any particular Housing Market Area will be influenced as much by these practical and policy considerations (eg Green Belt and areas liable to flood) as the housing market.

Para 26 suggests there is a case for joint housing land availability assessments covering Housing Market areas. In Kent there is already a well-established annual housing land supply monitoring system which feeds into SEERA's monitoring arrangements. This could quite easily be adapted to provide outputs for Housing Market Areas as well as districts. It does not need any special machinery for joint working to do this. Because of the source of development control statistics the districts are still the most appropriate building block for Urban Capacity Studies and Housing Land Supply Assessments. What is important is that such studies are consistent, compatible and co-ordinated.

The first Para 28 on page 27 says that Local Authorities should Plan for 15 years housing provision consistent with the RSS looking 20 years ahead. This needs clarification. Presumably it means 15 years after the anticipated adoption date of the DPD. On the basis that an RSS will take at least 3 years to produce and a DPD at least 2 years after this, then it would be easier to simply make it clear that the DPD should allocate land in accordance with the full requirements of the RSS up to its horizon year.

The second para 28 on page 27 says that housing sites should have an indicative timing attached to them. Can this please be clarified. Does it mean allocated to say a 5 year period or does it imply a more precise timing? Again there are loose references to "the first five years". I presume it means the "first five years following adoption". The final part of this paragraph is unclear. What does "local authorities..... will have the option to the release of their five year supply" mean? Putting aside the typographic error, what is the alternative to the option of releasing their five year supply?

The second para 28 also refers to allocated sites being brought forward by developers at any time within the first five years. Is this regardless of the supply projected to come forward from extant planning permissions and from windfalls. "Planning to Deliver" (on page 9) makes it clear that, "depending on the rate of windfalls, it is possible that not all allocated sites might be needed within the first phase of the Plan. Managing their release by phasing will allow such sites to be held back until monitoring indicates they are required". On page 15 "Planning to Deliver" indicates that releasing sites prematurely can result in over-capacity if windfalls in excess of the estimated allowance materialise. It goes on to say that granting permission too early to allocated sites could mean they are released unnecessarily". Does this advice still stand? If so, then para 28 needs some considerable refinement. If not, then "Planning to Deliver" needs to be withdrawn and itself rewritten.

There are many references to releasing "previously developed" sites first. Is this supposed to relate to previously developed sites within urban areas? If so, it should say so throughout the document. Or are previously developed sites in the countryside meant to be dealt with on a par with those within or adjacent to built-up areas. This begs the fundamental question, that was always ambiguous in PPG3, which is whether a previously developed site in the countryside is sequentially preferable to a greenfield site immediately adjacent to an urban area? This could usefully be clarified.

Para 30 says that authorities should "allocate or identify" land for the next 10 year period. Please explain the distinction between "allocate" and "identify". This paragraph says that the local authority "may want to manage release". It should clearly explain the

circumstances under which such an approach would be appropriate. It presumably cannot simply be on a whim. Para 31 says that “not all Local Authorities “will be able to allocate land for the medium to long term”. This raises the question “why?”. The circumstances under which it will be acceptable for an authority not to allocate sufficient land to meet its requirements and still have a plan that is in general conformity with the RSS needs to be explained.

Para 28 of PPG3 says that local plans (LDFs) should identify sites for housing sufficient to meet requirements “after making an allowance for windfalls. Box 2.4 in the consultation document says that DPDs must allocate land equivalent to the first 5 years of housing provision “taking account of windfalls where it is not possible to allocate enough land”. “ This is a radical change that could result in significant levels of over-provision and the unnecessary and premature release of greenfield sites. Provided the estimates of windfalls are well justified by monitoring and realistic, it must still be right that they are taken into account, together with the potential yield during the first 5 years from extant planning permissions, **before** any land is actually allocated for development. Indeed, in many cases there may not be a need to allocate any land for the first five year period because windfalls and permissions are likely to be sufficient to meet requirements. This is certainly the case in Tonbridge and Malling.

Much of the confusion seems arise because of terminology. Our interpretation of the use of the word “allocate” is that land is allocated for development (ie completion) during a particular plan period. There is a perception that perhaps the consultation document is talking about allocating land during a particular period upon which planning permission should be granted. Many of these sites will not be developed or completed until the next 5 year period. This definition needs to be clarified.

Para 35 says that there are two main reasons for monitoring; both are about failure to deliver. This underlines the fact that the whole document is predicated on the basis that the planning system is failing to deliver the housing needed. But there are some places in the Country, like Tonbridge and Malling, where this is not the case. Over-supply and the potential for the premature release of allocated and greenfield sites is an issue that also needs to be addressed. Clear policy guidance is required because, as mentioned previously, there is evidence of considerable inconsistency in appeal decisions on the issue of over-supply.

Para 41 refers to reviewing a site allocations DPD “or changing the phasing of particular allocated sites”. There is no clear indication of how such “changing of phasing” should be done, though para 42 suggests it could be done through a SPD. Is this suggesting that the issue of phasing generally is something that is supplementary to the development plan. Phasing could significantly affect the value of a site. An owner or developer may feel rightly disenfranchised if such a matter was relegated to SPD.

Para 43 talks about rolling forward land from later phases. Again this is predicated on an assumption of under-supply. There is nothing that deals with the situation where the level of windfalls mean that there is no need to roll forward sites. There is nothing that supports the concept of husbanding the scarce resource of land suitable for development, particularly in restraint areas. The closest it gets is in para 45 where it says that in managed growth areas local authorities should continue to phase land

release to manage the pace of development. However, it does not say what this means in practice. For example, will the Secretary of State supports refusals for housing development in order to manage the pace of development.

Para 47 deals with managing windfalls. This seems to be a contradiction in terms. Windfall development is development that takes place on unallocated sites but which is otherwise acceptable. If a proposal is acceptable in principle for housing, a refusal is unlikely to be sustainable. The suggestion that in areas of managed reduction permission for windfalls should only be granted in line with the "windfall allowance" (the first time, incidentally, such a term is used) fails to recognise the nature of windfall development. It treats is as if it is in some way planned development, which by definition it is not. The final sentence of this paragraph, which says that the approach to dealing with windfalls should "not prevent local authorities and developers taking these opportunities" just adds to the confusion.

In conclusion and in summary, the advice will need to be refined and be a lot clearer before it is any use to practitioners.

Yours sincerely

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