Dear Sirs

SOUTH KESTEVEN DISTRICT COUNCIL – SITE ALLOCATION & POLICIES DPD EXAMINATION

We are instructed by the Stamford Chamber of Trade and Commerce ("SCOT") to make representations on its behalf relating to the soundness of South Kesteven District Council's ("the Council") proposed Site Allocations & Policies DPD (S AP). We focus specifically on the sustainability and transportation issues arising from the selection of sites for development in and around Stamford.

SCOT has made representations in writing and also to the Inspector and this letter is in addition to those representations. It attempts to summarise some of the concerns arising out of the process and procedures adopted by the Council in its selection and allocation of sites in and around Stamford in the SAP such as would cast doubt on the soundness of the proposed DPD.

It appears to us that the Council's adopted Core Strategy accepts and promotes the key objective of sustainable development (in accordance with the National Planning Policy Framework), both in terms of minimising environmental damage and promoting sustainable transport. It is SCOT's view that the sites selected, in particular STM 1(e) and STM 2(c) (policy STM3) fail to accord with the Core Strategy and the objectives set out therein. In addition, they are of the view that it therefore also fails to accord with the sustainability principles enshrined in the National Planning Policy Framework.

Sustainability and Transport
SKDC Core Strategy paragraph 1.8.3 identifies congestion management within the District's market towns as one of the challenges that the Council needs to meet.

Sustainable Settlements Objective 3 of the Core Strategy confirms the objective of making effective use of land by maximising the amount of development on suitable previously developed sites and on sites in locations which reduce the need to travel.

Core Strategy Objective 4 states the need to improve accessibility to jobs, houses and services, and to reduce traffic growth by ensuring choice to use public transport, walk or cycle, for as many journeys as possible.

Core Strategy Policy SP1 confirms that in all cases planning permission will only be granted on a less sustainable site where it has been proven that there are no other more sustainable options available or there are other overriding material considerations.

Core Strategy Policy SP1—Spatial Strategy, confirms that new development, which helps to maintain and support the role of the 3 market towns, including in Stamford will also be allowed but that priority will be given to sustainable sites within the built-up part of the town where development would not compromise the nature and character of the town and sites which are allocated in the site specific allocations and policies DPD. It goes on to provide that if insufficient land within the built-up part of the settlement is available to meet the development needs of each town, appropriate sites on the edges of the towns may also be considered suitable for development.

Core Strategy Policy SP3 at paragraph 3.3.7 states that "Stamford experiences problems from the presence of through traffic, increasing demand for access to town centre with congestion and parking problems at peak periods, limited public transport services and constraints imposed by the historic road network and historic core of the town. The Council will work in partnership with the County Council, service providers and others to develop and implement measures to reduce traffic congestion and improve accessibility."

Paragraph 3.3.8 notes that “the longer term schemes highlighted in the 2nd LTP including the A16 Tallington Bypass and Stamford Relief Road (s) are unlikely to be deliverable before the end of the plan period unless there is a major change in national funding or opportunities arise through development led proposals, provided that they can be shown to be consistent with the Plan's overall Spatial Strategy.”

We understand that when the Landscape Sensitive Capacity Study 2011 was originally undertaken on behalf of the Council a site to the north of the town (Site S4, which included an area of land identified as ADD 43) appears to have been considered as suitable but that when the transport assessment was undertaken on the Council’s behalf by Jacobs this site was not assessed and as such areas to the north of the town which could provide a more sustainable form of development were not considered.

In addition it also appears to SCOT that sites to the east of town would, on the face of the documentation, have provided a more sustainable option for allocation in the SAP, which the Council failed to properly assess in breach of the policies set out above and its stated objectives in the Core Strategy.

Further it would seem that the Council failed to consider whether there were other more sustainable locations which might have been available for allocation in the SAP.

**Sustainable Urban Extension**

South Kesteven's Core Strategy only identifies 2 Sustainable Urban Extensions, both in and around Grantham. The Core Strategy notes that Sustainable Urban Extensions are developments which take place at the edges of existing urban areas, typically on greenfield sites and other open land at the urban fringe. It is clear that some of the sites promoted in the SAP should have been identified as a sustainable urban extension if it was to accord with the Core Strategy. The Core Strategy failed to identify any Sustainable Urban Extensions in or around Stamford.
SCOT has made representations in relation to the landscape assessment carried out on behalf of the Council and which underpins the justification of the SAP, which in our view, cast considerable doubt on the assessment of suitability of sites selected in and around Stamford. This position appears to us to be further supported by an approach which the Council itself previously adopted through the previous local planning process.

In addition to this the 1995 SKDC Local Plan was adopted following a recommendation of the SKDC Local Plan Inspector that the land proposed for allocation to the West of Stamford in the current SAP was worthy of protection, whereas land to the east of Stamford provided a more sustainable location for development. Given the detailed nature of the previous local planning process, it seems perverse that little or no justification is provided in adopting an opposing stance in the current SAP without having provided clear justification for the departure (which the Council now proposes to make from its previous adopted Local Plan). Whilst we accept that the previous local plan does not have any binding status in relation to any future development plan allocations the evidence base and the justification underpinning those policies do require consideration and explanation where the Council wishes to adopt an opposing stance in a later development plan document.

Site selection methodology
We understand that the Inspector has already written to the Council relating to the soundness of the Grantham Area Action Plan, which was prepared by the same planning unit at the Council, adopting a similar, if not the same methodology and procedures in terms of the site selection and assessment process as those concerned with preparing the SAP. Our client has made representations in relation to where it considers the site selection methodology and procedure has been erroneous or unfair and it is our belief that if the same processes and procedures were adopted in relation to the SAP it is likely to be tainted with the same concerns in relation to the assessment of sites for selection such as to be of concern in terms of its soundness and procedural regularity.

We understand that SCOT made representations on 20 January 2012, which confirmed that the Council's previous assessment of flood risk was inaccurate. It is clear from the Council's site selection assessment (in its Evidence Document) that this factor featured heavily in the Council's assessment of the appropriateness and sustainability of sites and in the event that the Inspector accepts that the flood risk assessment as originally carried out was inaccurate, it casts serious doubt on the soundness of the entire site selection process.

In addition to this, it is clear from a reading of the site allocations and policies Evidence Document that in many instances the Council disregarded sites where contamination may have been present (in many instances because they were previously developed lands) because they considered it unsuitable for development. This approach is contrary to the Council's Core Strategy objective in relation to Stamford which confirms its intentions of maximising the amount of development on previously developed sites.

Case law
We are of the view that in addition to the guidance issued by the Planning Inspectorate there are two reported cases which are of particular note:

The decision in Manydown Co Ltd v Basingstoke and Deane BC [2012] EWHC 977 (Admin) makes it clear that it is difficult but vital for a local authority to properly consider the issue of availability of land in the promotion of their development plan documents. The mere fact that a landowner has not promoted his site through the development plan document does not necessarily mean that that site is not available for the purposes of the consideration of site allocation and promotion of the site through the development plan document.

The decision in Save Historic Newmarket Ltd v Forest Heath DC 2011] EWHC 606 (Admin) relates to the assessment of alternatives and the explanations for their selection.

The Inspector will be aware of the facts in this case where the claimants (S) sought to quash a core strategy adopted by the defendant local authority. The strategy proposed an urban extension to the north-east of Newmarket for 1,200 dwellings. Before putting forward its final draft strategy for approval,
the local authority had produced several reports on the environmental impact of the urban extension and had rejected any alternative locations for the development. S believed that the urban extension would have a serious adverse effect on the horse racing industry in the town and argued that the local authority had failed to comply with requirements laid down in Directive 2001/42 and the Environmental Assessment of Plans and Program Regulations 2004. S submitted that the final environmental report submitted for approval with the final draft strategy had not identified any of the alternative locations considered and had failed to state why those alternatives had been rejected.

The Court held that Article 12(2) of the Directive required Member States to ensure "that environmental reports are of a sufficient quality to meet the requirements of this Directive...". Quality involved ensuring that a report was based on proper information and expertise and covered all the potential effects of the plan in question. In addition, the report had to enable members of the public potentially affected by the plans to understand why the proposals were said to be environmentally sound. To that end, the report had to be comprehensible and had to contain the necessary information required by the Directive (see para.12 of judgment). It was clear from art.5 that those likely to be affected had to be presented with an accurate picture of the reasonable alternatives to the policies proposed and why Article 12(2) of the Directive required Member States to ensure "that environmental reports are of a sufficient quality to meet the requirements of this Directive...". Quality involved ensuring that a report was based on proper information and expertise and covered all the potential effects of the plan in question. In addition, the report had to enable members of the public potentially affected by the plans to understand why the proposals were said to be environmentally sound. To that end, the report had to be comprehensible and had to contain the necessary information required by the Directive (see para.12 of judgment). It was clear from art.5 that those likely to be affected had to be presented with an accurate picture of the reasonable alternatives to the policies proposed and why.

In light of the representations made above we ask the Inspector to find that the SAP as currently prepared and drafted is unsound.

Yours faithfully

Wedlake Bell LLP