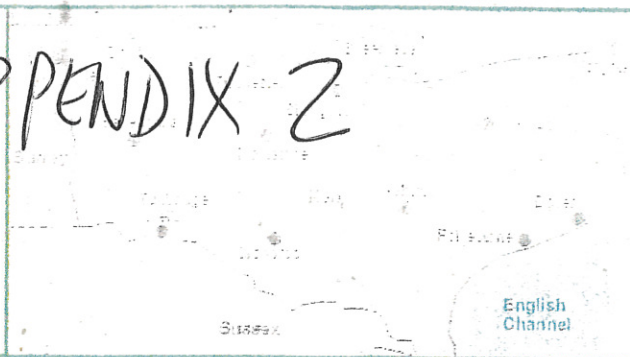


The Kent Environment and Community Network

APPENDIX 2



European Commission

Mark Ellender
Head of Legal and Democratic Services
Canterbury City Council
Military Road
Canterbury, Kent CT1 1YW

Please reply to :
Netherbury
Meadow Close
Bridge, Kent
CT4 5AT

March 21st 2011

Dear Mark Ellender

COPY

Re: Potential failure of Canterbury City Council to undertake an environmental assessment of the Local Investment Plan (LIP) before adoption as required by Regulation 9(1) and 8(1)(b) of the Environmental Assessment of Plans and Programmes Regulations 2004 No. 1633 (the Regulations).

Canterbury District Council approved the LIP at a full council committee on January 13th 2011 without an environmental assessment. It is a 'working' document and will shortly be brought back to full Committee for full determination in that the investment streams and associated development proposals within the LIP will be approved. To adopt the LIP without subjecting it to the Regulations at this final, future stage would be unlawful.

The LIP is not a budgetary or financial plan. It is primarily a local plan to indicate where housing, employment and transport development infrastructure should go in Canterbury, Shepway, Dover and Thanet districts. The LIP is not just simply about releasing funding streams from the Homes and Communities Agency. Large-scale and site-specific projects are indicated for each district. The LIP and its resulting funding arrangements will encourage and increase the likelihood of the LIP proposals materialising. The LIP will predetermine to varying degrees planning outcomes for East Kent. The Regulations bite in these circumstances. The size and type of the LIP proposals when considered for planning permission would fall under the Environmental Impact Assessment regime under either Annex 1 or Annex 11.

With regard to Canterbury, a large site location for thousands of homes on farmland in Canterbury South is introduced in the LIP for the first time without guidance from an adopted Core Strategy or other legitimate planning document. By regulation 2 of the Town and Country Planning (Local Development) (England) Regulations 2004, a "site allocation policy" means a policy which allocates a site for a particular use or development'. Under regulation 7, any document which includes a site allocation



policy, must be a development plan document. Therefore, in the case of any doubt, by this fact alone, the LIP becomes subject to the Regulations.

The LIP is in effect a local plan but without having had the safeguards of public consultation, environmental assessment and accountability of decision makers afforded to plans under the Local Development Framework.

The East Kent Local Strategic Partnership (LSP), the creator of the LIP is supposed to represent the shared community interests arising from the partnership according to Government guidance entitled Creating Strong, Safe and Prosperous Communities July 2008. At paragraph 2.7.v. it says, 'The representatives need to be able to take account of *all* of the community, including the diverse range of minority community interests. It should also be clear how they will be able to influence the decisions and actions of the LSP'. This is not the case here. The LSP membership does not include residential or environmental groups. The LSP members appear to be self-appointed and self-regulated with a constitutionally unsuitable involvement of the Chief Executives. Chief Executives are supposed to give neutral advice to their councils on all matters including planning. Their involvement with the LSP and the LIP process raises a serious legal question; are these Chief Executives biased? (See Appendix 1 for the constitutionally unsuitable memberships of the Chief Executive of Canterbury City Council).

KECN is understandably concerned about the above raised issues. We look forward to hearing from you about how the LIP will be made to comply with the Regulations before adoption. We also would appreciate your views regarding the constitutional structure of the LSP and involvement of Chief Executives in it.

Yours Sincerely

Emily Shirley

Copies to:

Cllr Alex Perkins

Harvey Patterson Head of Legal and Democratic Services TDC

David Randall Director of Governance DDC

Head of Legal and Democratic Services SDC

Standards in Public Life Committee

European Commission

Appendix 1

Colin Carmichael

Chief Executive of Canterbury City Council

Other Interests:

Canterbury 4 Business: Member of Board of Directors

East Kent Enterprise Council: Member of Board of Directors

Kent Invicta Chamber of Commerce: Member of Board of Directors

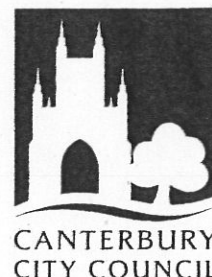
East Kent Strategic Partnership: Member of the Board

University of Kent: Member of the Court

Canterbury Christchurch University: Board of Governors

Canterbury College: Chair of Governing Body

Date: 12 May 2011
Your Ref:
Our Ref: JT/SFS
Ask for: Janet Taylor
Direct dial: 01227 862 017
Direct fax: 01227 862 566
E-mail: janet.taylor@canterbury.gov.uk



The Kent Environment and Community Network
Metherbury
Meadow Close
Bridge
CANTERBURY
CT4 5AT

Dear Mrs Shirley

The potential failure of Canterbury City Council to undertake an environmental assessment of the Local Investment Plan before adoption

I am sorry that I have not been able to respond to your letter more quickly.

The Local Investment Plan (LIP) is not to be brought back to the Executive or Full Council for full determination. The LIP is not a local plan and is subsidiary to the Local Development Framework (LDF) and the Local Plan. The information within the LIP comes from the draft documents which have been prepared for the LDF and from the existing Canterbury Local Plan. The LIP will not predetermine planning outcomes for east Kent. The LIP will always be subservient to the LDF and will be changed with regard to the adopted LDF in due course. The LIP is not a local plan, nor is it a planning document. In agreeing it councillors were not agreeing to any development plan for the Canterbury district.

The Housing and Community Agency, the organisation which replaced the Housing Corporation, sought the preparation of the LIP. A LIP was prepared by every sub-region in the country. In this area the LIP became a document for east Kent. In essence the LIP is a bidding document for the council's affordable housing proposals. The LIP is a snapshot in time and was written when grant for affordable housing was available from the HCA. It is now less relevant as the HCA budget has been cut by 62.5% and the council assumes a nil grant status for most affordable housing schemes.

Continued

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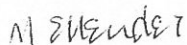
The Government Standard



INVESTOR IN PEOPLE

The East Kent Local Strategic Partnership (LSP) was asked by the East Kent councils to coordinate preparation of the LIP. This was in response to a request from a central government agency as a basis for making funding applications at some time in the future. The LSP has had a number of stakeholder events around the LIP including consultation with local Registered Social Landlords, the Primary Care Trust, universities, Kent Fire and Rescue Service, the Environment Agency, Highways Agency and Kent Police. However, as the LIP always remains subservient to the Local Plan and LDF, which will go through its own rigorous consultation and enquiry, I consider that any suggestion of bias is not well made.

Yours sincerely



Mark Ellender
Head of Legal and Democratic Services

