

MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION

SESSION 1A – LEGAL AND PROCEDURAL MATTERS

This statement is made by Henny Shotter (R1934) and Nick Osborne of Lenham and supported by Lenham Neighbourhood Plan Group

Issue (ii) Whether the consultation process has accorded with the Statement of Community Involvement and other statutory provisions. (SUB 009)

to point 1.22. Some landscape and gap designations in the adopted Local Plan 2000 cross district boundaries.

Specifically to

Qn1.9 Has there been cross border co-operation in the review of such designations?

The Lenham Neighbourhood Plan Group contest that cross-border co-operation with regard to the River Basin Management Areas has taken place.

‘Where the work of a public body affects a river basin district, that body has a general duty to have regard to the River Basin Management Plan. Ministerial guidance states that the Environment Agency should:

- work with other public bodies to develop good links between river basin management planning and other relevant plans and strategies, especially those plans that have a statutory basis such as the Local Development Plans and Wales Spatial Plan;

encourage public bodies to include Water Framework Directive considerations in their plans, policies, guidance, appraisal systems and casework decisions. ‘(see: p. 51 ‘The River Basin Management Plan, South East River Basin District’).

There is no evidence that Maidstone Borough Council has consulted the Environment Agency or DEFRA in respect of the Upper Stour which is part of the South East River Basin District.

The issue of sewage disposal in Lenham is at this stage still unresolved and environmental constraints unknown.

Evidence:

1) The Len is part of the Thames River Basin District (reflected in Thames River Management Plan ORD 016.)

Lenham occupies the area of the Kentish watershed which results in

The Upper Stour (where the sewage works are located) being part of the South East River Basin https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/295841/geso0910bsta-e-e.pdf. 'The River Basin Management Plan, South East River Basin District' is not submitted as evidence

2) Maps in the Green and Blue Infrastructure Strategy (June 2016- no final consultation)) and very clearly the map 'Green Infrastructure' (SUB 007) (see attached map), show the Len and the Stour as ONE river, crossing the Kentish watershed. The text in relation to the Stour states that the Stour is part of the Kentish Stour Catchment Area.

Relevance: Although the Upper Stour is only an 'ordinary' river and not a main river, it is part of the South East River Basin District and mapped. It is shown as having bad ecological status, with bad ecological potential (see: p. 51 'The River Basin Management Plan, South East River Basin District').

The Upper Stour was predicted to have 'moderate' potential by 2015 (see: p. 31 'The River Basin Management Plan, South East River Basin District').

One of the key actions mentioned to improve the water environment of the Stour are improvement to the sewage Works in Lenham (p.52).

The sewage works were consequently upgraded and have tertiary treatment (reedbeds).

Lenham sewage works are located on this very 'young' river which has irregular flow patterns which is a major factor in assessing the impact of sewage works on rivers. Wetland in the vicinity of a river can help to regulate flow patterns. some of the land identified for development in Lenham is wetland surrounding the river heads. Besides ecological concerns we are concerned for the amenity value of the Stour as the 'Stour Valley Walk' (Long Distance Walk) encompasses the river.

Southern Water advised "that should the solution be to provide additional capacity at the Lenham WWTW, the existing environmental permit is likely to require amending to enable expansion to take place" (SUB 011 Infrastructure Delivery Plan (2016), p21f).

Considering the state of the Stour it is at the moment unclear whether such a permit will be forthcoming.

Conclusion: In our opinion Maidstone Borough Council has failed in its duty to co-operate as detailed in NPPF 178 ff., NPPF §182 and NPG Paragraph 001, Reference ID:9-001-20140306

Qn1.10 Would the Council please respond to the CPRE representations concerning consultation with parish councils.

1.1. The Statement of Community Involvement, Consultation Statement (SUB 009)

We would like to query whether the form of this consultation document fulfils the statutory requirement and is meaningful and detailed enough. There are no dates and no frequency of interactions. In addition the document itself was not consulted upon, as it should have been.

One of the core principles of the NPPF stipulates that the planning system ought to ‘take account of and support local strategies to improve the health, social and cultural wellbeing of all.’

I want to emphasise the aspect ‘of all’, which includes the existing population.

It was possibly this core principle which resulted in § 155 of the NPPF, which demands an ‘early and meaningful engagement and collaboration with Neighbourhoods, local organisations and businesses.’

We contend that the consultation process was non-compliant with §155 of the NPPF.

1.2. Engagement with the Parish

On 7 March 2012, Lenham Parish Council resolved to prepare a Neighbourhood Plan. The Parish Council met with officers of Maidstone Borough Council on 22 May 2012 to seek advice on the best way forward in planning and consulting. CPRE Kent gave advice on potential content, formal requirement and potential sources of funding.

Consultation with the community was well on its way .

Sites like Tanyard Farm North H(48), Glebe Pond H (43) and the principle of accepting the railway line as a southerly border of the village itself were being discussed and did not, at this time, face major opposition from the public or Lenham Parish Council

In May 2013, the Neighbourhood Plan process was suspended after discussion with Maidstone Borough Council and on their advice, following their announcement of an intention to develop a new Local Plan rather than prepare a Core Strategy.

Between May 2013 and March 2014 there was no communication between MBC and Lenham. At no time before the publication of the Regulation 14 Draft did Maidstone Borough Council engage with Lenham Parish .

When Lenham was identified as a ‘broad location’ to the east and west of the village, this came as a huge surprise to everybody, even our local Borough Councillors, who are not members of the Planning Committee. Even they were not consulted beforehand.

Lenham Parish Council only discovered at the publication stage of the MBC Local Plan (Regulation 14) where these houses were planned, to the East and West of Lenham and, at that time, on the Cricket Ground (HO3-239) and the Allotments (HO3-209). There was no discussion at all with the Parish Council prior to this, which had, as required by the legislation, already registered its Neighbourhood Plan.

It is within the remit of a Neighbourhood Plan to identify areas for development within certain parameters, such as strategy and overall housing numbers.

The Draft Local Plan from Reg. 14 onwards pre-empted such engagement and wilfully ignored this right.

Consultation 16th April 2014, Venue. Lenham Community Centre, Attendees MBC Planners and Lenham Parish Council.

This consultation meeting was the first opportunity for MBC planners to consult with the general public of Lenham, to discuss an increase in development to build a further 245 houses in the Parish in the period from 2016 to 2031.

Maidstone Borough Council produced a Local Plan booklet, which detailed the plan for 245 houses. At the back of this booklet, it showed a map of Lenham with a shaded area to the east of the settlement which could support, in MBC's view, the building of a further 1500 houses.

When challenged on this, MBC representatives refused to answer any questions, remarking that this would not be considered during the plan period from 2016 to 2031

In this context, it is important to note that a Parish Council which prepares a Neighbourhood Plan does not have the right to set its own housing numbers and has to take advice given by the Planning Authority. It does, however, have the right to determine WHERE these houses will be located. In our opinion, we should have been consulted, given that our Neighbourhood Plan had already been properly registered.

At no time did Maidstone Borough Council explain to the people of Lenham the rationale for selecting Lenham as the location for almost 10% of the envisaged borough-wide housing increase. Therefore, Lenham Parish Council has been afforded NO opportunity to question how this figure of 1500 houses has been arrived at.

Lenham Parish Council re-commenced its work on the Neighbourhood Plan under the guidance of a consultant and engaged intensively with the community. The consultant team produced an excellent landscape study and there were several public Consultation Meetings to which Maidstone Borough Council was invited. No official member of Maidstone Borough Council attended any of these consultation events.

Tour of the Parish on 6th November 2014

This took the form of a coach trip around the Parish, with the intent of visiting every quarter of the Parish to ensure no part was neglected in the consideration of the Plan. The tour was attended by members of the Parish Council, officers of Maidstone Borough Council, members of the HIVE work groups, and the Neighbourhood Plan consultants. One of its main purposes was to ensure that the officers of Maidstone Borough Council were fully aware of the landscape quality of the Parish. We were given no feedback by them whatsoever.

At a further meeting with MBC it was suggested that Lenham's emerging Neighbourhood Plan would need to reflect MBC's Local Plan to include 1500 houses.

This would mean:

- the near DOUBLING of the population of Lenham Parish
- the TREBLING of the population of Lenham village (the MBC identified development area)

With 1750 new houses in the plan period, Lenham is expected to take 10% of Maidstone Borough's envisaged growth, which is manifestly disproportionate and has never been explained or justified to the people of Lenham.

This unexpected, additional and extraordinary proposed growth for Lenham demands intensive engagement with the community, which has not happened until May 2016 at a 'Stakeholder Meeting'. Prior to this Lenham was not given any opportunity to have a positive input in the Local Plan. Our only opportunity to have input was to oppose it.

Engagement with local businesses

Sustainable development comprises of environmental, economical and social aspects. We have so far demonstrated that Maidstone Borough Council did not engage with the wider community, with real people who live in Lenham and organise the village life through the various clubs and societies.

Furthermore, Maidstone Borough Council failed to engage with businesses in Lenham whose views are totally missing from the Consultation Statement (SUB 009).

Lenham Storage and Aliaxis (formerly Marley) and the occupiers of Ashmill Business Park are the largest businesses in respect of the land they occupy. There was no consultation with either business in order to identify their needs, development prospects and opportunities, nor was there any consultation with smaller businesses, which form the Len Valley Business Association.

Engagement with landowners

MBC initiated contact with landowners and farmers. Lenham has several large farming businesses, two of which own land around Lenham village. There does not seem to be any recognition that agricultural land is an asset which guarantees the future of these farming businesses. One of these farmers did not want to put forward any of his land. The other farmer withdrew the land which he had originally brought forward in a call for sites. Maidstone Borough Council did not update its plan accordingly at Consultation Reg. 16.

Stakeholder Meeting May 2016

In August 2015, Lenham Parish Council was invited to 'masterplan' the Broad Location Lenham. We rejected this invitation in our letter of 3.9.2015 (on legal advice, as Masterplanning is a matter which is not part of the local plan process and is normally 'the subject of SPD, following adoption of the plan'.

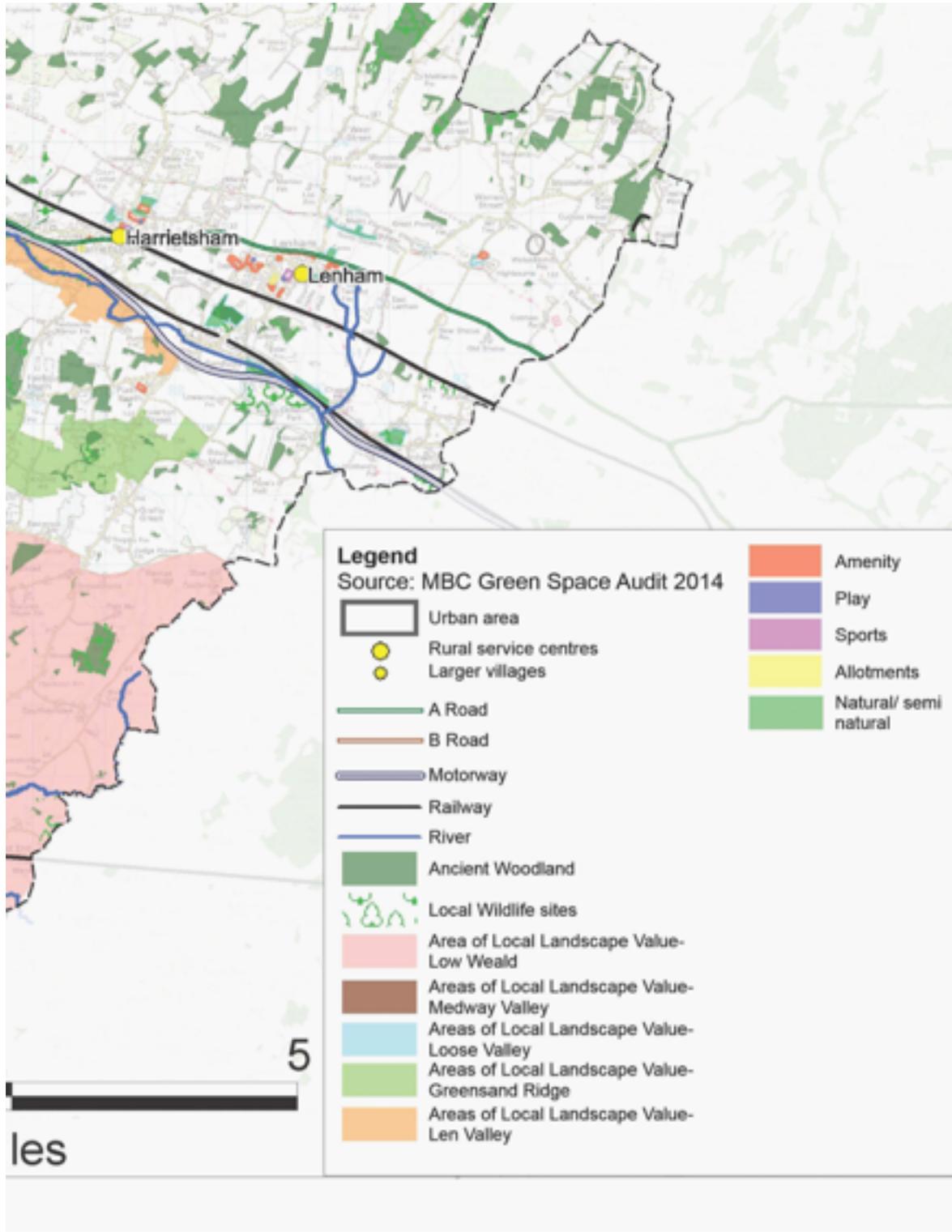
It was only in May 2016 that Maidstone Borough Council opened up a dialogue with Lenham Parish Council in the form of a 'Stakeholder Meeting', with a limited list of participants. This meeting resulted in a document, 'Exploration of the 'Broad Location' Allocation at Lenham Village' (STR 002)

This document demonstrates that Maidstone Borough Council is not apparently aware of its facts and, consequently, presents erroneous information as 'fact'. Specifically,

1. The map 'Lenham Village Broad Location Allocation' (p.19) contains one potential development site which the landowner has withdrawn.

2. In the map 'Lenham Village Possible Option' (p.23) there is one site which was withdrawn by the landowner and another one which has never been put forward in a call for sites and was therefore never subject of a SHEDLAA.

Conclusion: We do not know whether such errors are legally problematic or evidence of the Plan not being 'sound' but they demonstrate clearly that MBC has not used community engagement to inform its plan.



Dated 13th September 2016