

### Session 9 –Retail and Mixed Development.

#### Inspector's Question 9.1

For clarity as to what may be permitted, should Policy DM17 include either a local threshold for the sequential test or refer to the Framework default threshold?

#### Council's response

9.1.1 The Framework does not set a specific threshold for the application of the sequential test for town centre uses; it does however set a default threshold of 2,500sqm for the impact test (paragraph 26). Similarly, the PPG does not propose a specific threshold for the sequential test. The Framework does state that the sequential approach should not be applied for small scale rural offices or other small scale rural development.

9.1.2 As it stands, Policy DM17 would require a sequential test to be applied for an application for a town centre use (outside of a centre) of any size subject to the Framework's small scale rural development exemption (paragraph 25 of the Framework). The Plan does not, however, provide clarification about what rural development would qualify as 'small scale'. A change is proposed to Policy DM17 to address this.

9.1.3 Further, the Council considers that it would be inappropriate for a development designed to meet local needs to be required to comply with the sequential test. For retail for example this could be a corner shop, newsagent or other shop selling everyday items. A further change to the policy is proposed to exempt such types of uses from the requirement to undertake a sequential test.

9.1.4 Related changes to the supported text are also proposed to provide additional clarity about the types of development which would be encompassed by the new criteria and to confirm that Framework's impact test threshold of 2,500sqm will apply.

PC/99	<p>Add 'or' the end of criterion 1(ii) as follows:</p> <p>1(ii) ...of a site allocated for the use proposed. <u>Or</u></p> <p>Include additional criteria 1(iii) and (iv) to state:</p> <p><u>(iii) The development is in the countryside and is in accordance with Policy DM41 or Policy DM44; Or</u></p> <p><u>(iv) The development is of purely local significance designed to serve the needs of the immediate neighbourhood</u></p>	<p>To ensure the Plan more clearly reflects the rural development exemption in the Framework; to ensure that a sequential test is applied proportionately in appropriate circumstances only.</p>
PC/100	<p>Add a new paragraph after paragraph 17.82 to read;</p> <p><u>17.82a A proposal for small scale rural development related to the expansion of an existing rural business or</u></p>	

	<u>retail development will not be required to comply with Policy DM17. Such development will be assessed under the terms of Policy DM41 or DM44 respectively.</u>	
PC/101	17.83 <u>An impact assessment will be required for proposals above the Framework's specified threshold of 2,500sqm.</u> In assessing the impact of proposals...	To clarify that the default threshold in paragraph 26 of the Framework will apply.

### **Inspector's Question 9.2**

Should small scale rural offices or other small scale rural development be explicitly exempted from the impact test for consistency with the Framework and, if so, would the scale of such development need to be defined in this or other plan policies?

### **Council's response**

9.2.1 In response to Q9.1, a change to the Plan is proposed to confirm what would constitute 'small scale rural development'. Development complying with the new criterion 1(iii) would not require a sequential test or an impact test.

### **Inspector's Question 9.3**

Is the suggested modification to Policy DM18 suggested by R19588 necessary to soundness and what would be its impact in practice?

### **Council's response**

9.3.1 The purpose of Policy DM18 is to identify the principal retail centres to ensure that their overall service function is sustained. The Policy distinguishes between district and local centres based on an assessment of the type and size of shops and other supporting facilities in the centre (CEN 005). The text of the Plan confirms that district centres will generally serve a wider catchment.

9.3.2 The suggested modification put forward by British Land (R19588) puts the explanation of the difference between district and local centres in the policy. Currently this is explained the text of the plan. In the Council's view this addition is not needed to make the Plan sound. It adds additional information, which is already in the text of the Plan, but does not alter the actual policy requirements.

9.3.3 The representor's change identifies 5 villages as having local rather than district centres and removes from Policy DM18 the reference to enhancing the retail function of these centres (although for other local centres this reference is retained). The Council considers that these villages' facilities serve a wider rural hinterland, beyond just the immediate neighbourhood and that this justifies their identification as district centres. District centre designation is a reflection of the existing role of centres and does not need to reflect only those centres with specific capacity for expansion. Enhancement does not need to be limited to an increase in the physical extent of the centre; it could include physical improvements to modernise shop premises for example or public realm improvements. The Framework requires Local Plans to "define a network and hierarchy of centres that is resilient to anticipated future economic

changes" (paragraph 23), which the Local Plan does, and the Framework's Glossary does not specify that district centres can only be those with space for physical expansion.

9.3.4 The Council considers that the policy as drafted is sound and that the change proposed by the representor is not supported by the evidence or by the Framework.

#### **Inspector's Question 9.4**

Does Policy 31 and the Policies Map provide an adequate definition of primary and secondary shopping frontages to satisfy the requirements of the Framework?

#### **Council's response:**

9.4.1 DM31 is the policy for development in primary shopping frontages; Policy DM32 is the policy for secondary shopping frontages. The Framework requires Local Plans to "define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres and set policies that make clear which uses will be permitted in such locations" (paragraph 23).

9.4.2 The Council considers that Policy DM31 and the primary and secondary shopping frontages shown on the Policies Map both satisfy the requirements of the Framework.

#### **Inspector's Question 9.5**

Having regard to the Framework's provisions does an out of centre retail or office development

- Require evidence of a sequential test prior to allocation
- Require an impact assessment either before or after allocation

#### **Council's response**

9.5.1 The Framework directs local authorities to take a sequential approach to the allocation of sites for town centre uses, (paragraph 23, 7<sup>th</sup> bullet). This is further affirmed in the Guidance<sup>1</sup> which goes on to state that "It requires clearly explained reasoning if more central opportunities to locate main town centre uses are rejected."

9.5.2 Potential sites were assessed through the SHEDLAA (HOU 007). This process confirmed the availability and potential suitability of sites for town centre uses. No potential sites in the primary shopping area came forward for retail development. The sites which came forward in edge of centre locations were King Street car park and AMF bowling (MX2-18) and the Maidstone East & Sorting office site (MX2-17). These sites are both allocated in the Local Plan. The council subsequently identified the longer term opportunity for the redevelopment of The Mall which is in the primary shopping area.

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<sup>1</sup> Ensuring the viability of town centres: Paragraph: 009 Reference ID: 2b-009-20140306

9.5.3 The Mote Road site was submitted for a mix of potential town centre and B class uses. The Council has proposed that the policy EMP1(1) for this site be amended to allocate the site for mixed use to include housing and offices.

9.5.4 Through the mechanism of the SHEDLAA, the Council has demonstrated a sequential approach to the allocation of sites for town centre uses in the Plan.

9.5.5 Further, with respect to office uses, the evidence identifies that there are distinct markets for office uses (see SUB 003 paragraph 49). Directing new office development to the town centre only would fail to adequately meet the needs of the market. In these circumstances, the approach to allocate offices as part of the mix of uses at the (out of centre) Woodcut Farm site (EMP1(5)) is considered to be justified.

9.5.6 With regards to impact assessments, the Framework is not explicit that impact assessments are required as part of the Local Plan process. The Guidance states "If the Local Plan is based on meeting the assessed need for town centre uses in accordance with the sequential approach, issues of adverse impact should not arise. The impact test may be useful in determining whether proposals in certain locations would impact on existing, committed and planned public and private investment, or on the role of centres."<sup>2</sup>

9.5.7 As set out, a sequential approach has been followed in respect of the allocation of sites, and in these circumstances impact tests are not considered to be necessary for the edge of centre sites which the Local Plan allocates.

9.5.8 With respect to office development, as stated, the evidence points to distinct office markets. In these circumstances, it is not expected that development at Woodcut Farm would adversely impact on the town centre.

9.5.9 With respect to Newnham Park specifically, the Newnham Park Shopping Village is an existing retail site which is in an out of centre location. The Council would like to propose changes to Policy RMX1(1) which;

- a. Omits reference to an additional 700sqm of retail floorspace from the policy
- b. Confirms that any additional retail floorspace, above the 14,300sqm already permitted, and/or additional leisure uses will require a sequential assessment as part of any planning application
- c. Confirms that any additional retail floorspace, above the 14,300sqm already permitted, and/or additional leisure uses will require an impact assessment as part of any planning application.

9.5.10 With these proposed changes, the Local Plan does not allocate additional retail floorspace at this out of centre site and more clearly ensures that the suitability of, and impact of, any additional floorspace in this location would be fully tested at the point of a planning application. Retail impacts in particular are considered to be sensitive to the exact nature of the retail floorspace proposed (for example, goods to be sold, proposed occupiers if these are already located in a town centre) which merits this precautionary approach to the testing of the implications of additional retail floorspace in this location.

PC/102	Amend the first sentence of the first paragraph of Policy RMX1(1) to read:	To clarify that the policy does not allocate
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<sup>2</sup> Ensuring the viability of town centres: Paragraph: 014 Reference ID: 2b-014-20140306

	Newnham Park, as shown on the policies map, is allocated for a medical centre of up to 100,000sqm, a replacement retail centre of up to <del>15,000sqm</del> <u>14,300sqm</u> and a nature reserve.	additional floorspace above that already permitted.
PC/103	Amend criterion 2 of Policy RMX1(1) to read:  2. Provision of a replacement garden centre and replacement retail premises of up to 14,300sqm gross retail floorspace <del>and additional provision of retail floorspace not exceeding 700sqm gross retail floorspace which is not to be used for the sale of clothing footwear, accessories, jewellery and watches.</del> <u>The</u> retail floorspace shall be confined to the vicinity of the existing footprint of the current retail area as shown on the policies map. New additional non-A1 floorspace will not be appropriate. The retail development should include the provision of a bus interchange and car park management plan.	To clarify that the policy does not allocate additional floorspace above that already permitted.
PC/104	Amend criterion 7 to read: 7. <del>The</del> <u>Any</u> additional retail floorspace <u>and/or leisure uses</u> <del>must be of an out of town format that is complementary to town centre uses and,</del> by means of a sequential sites assessment, demonstrably require an out of town location. Large scale retail warehousing style buildings will not be acceptable in this sensitive landscape location.	To confirm that additional floorspace will require a sequential test
PC/105	Amend criterion 8 to read: 8. Submission of a retail impact assessment which clearly demonstrates that the <u>additional</u> retail development <u>floorspace and/or leisure uses</u> has no significant adverse impact on town, <u>district</u> [PC/42] and local centres <u>including those in adjoining boroughs</u> [PC/42].	To confirm that additional floorspace will require an impact test
PC/106	Amend paragraph 13.8 of the supporting text to read:  The regeneration and revitalisation of Maidstone's town centre is a priority and the town centre will continue to be the primary retail and office location in the borough. Development will <del>predominantly</del> comprise replacement premises for the existing garden centre and for the shops already established <del>on-site</del> (equating to some 14,300m <sup>2</sup> ) <del>and a limited amount of additional floorspace at Newnham Court Shopping Village (up to 700m<sup>2</sup>)</del> within the vicinity of the existing retail footprint, as shown on the policies map. <del>Restrictions on the type of goods sold and the class A and D2 uses operating should ensure that the Village is complementary rather than in conflict with the vitality and viability of the town centre and should ensure that the character and appearance of the area is</del>	To ensure the supporting text reflects the revised content of the policy.

	<p>consistent with its sensitive location. The town centre functions successfully due to the mix of uses in close proximity to each other. Consequently, new additional non-retail floorspace (i.e. that which does not fall within use class A1) at Newnham Park, such as cafés, restaurants and public houses, together with banks and estate agents, are unlikely to be acceptable. Similarly, leisure uses such as cinemas and bowling alleys, and other uses that are likely to conflict with <u>that would undermine the vitality and viability of the town centre, are unlikely to be acceptable.</u> will not be permitted. <u>Proposals for any additional retail floorspace above 14,300sqm and leisure uses will require sequential and impact assessments at the planning application stage.</u> <u>Restrictions on the type of goods sold and the class A and D2 uses operating may be required to further ensure that impacts on the town and other centres can be controlled.</u> <u>The types of goods which may need to be controlled include clothing, footwear, accessories, jewellery and watches.</u> Subject to restrictions on the type of goods sold, retail premises that have a unique and recognised "out of town" format, such as 'homeware' offers, could be acceptable on the allocated site provided conflict with town centre uses would be unlikely. The height and bulk of the retail units will need to be controlled in this sensitive landscape location and for this reason conventional retail warehouse style buildings will not be acceptable. In order to assess the impact of proposals on the town centre, a retail impact assessment will be required.</p>	
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### **Inspector's Question 9.6**

Would a sequential test threshold that excluded smaller proposals (whether under 2,500sqm or another figure) apply so as to exclude net increases in floorspace of less than the threshold (as an example the 700sqm increase proposed for allocation at Newnham Park)

### **Council's response**

9.6.1 The proposed changes to Policy DM17 in response to Q9.1 does not set a numerical threshold but rather sets out the circumstances when a sequential test will not be required. As Newnham Court is an established shopping village with a more than local catchment it is appropriate that the implication of any additional floorspace is tested through a sequential test.

### **Inspector's Question 9.7**

What comment does MBC have concerning the timing of the Junction 5 improvements and their implications for the development?

#### **Council's response**

9.7.1 It is understood that the Junction 5 improvements are due to commence in 2019-20. Development on site RMX (1) (MA/13/1163) is coming forward in phases and a Reserved Matters application for a 65 bed hospital was permitted in April 2016. The timescale for delivery of further phases remains uncertain, however the site is likely to be built out over a number of years. The timing of the improvements (sooner than previously anticipated) and the resultant improvements to network functionality should therefore have a positive effect on the delivery of the development site.

### **Inspector's Question 9.8**

Does MBC now agree or dispute the Harvestore figure for existing floorspace and should the policy be modified in that regard?

#### **Council's response**

9.8.1 The Council does not agree Harvestore's figure. MBC considers that the existing garden centre/retail area extends to include the garden centre buildings and the permanent open and covered display areas. This equates to an area of some 14,300sqm.

### **Inspector's Question 9.9**

Having regard to national policy should a sequential test and a retail impact assessment precede or follow any allocation for additional floorspace?

#### **Council's response**

9.9.1 Changes in response to Q9.5 propose that no additional floorspace be allocated at this site.

### **Inspector's Question 9.10**

In the absence of a retail impact assessment and of any low threshold for the requirement for such a test, how is the figure of 700sqm as a maximum floorspace increase justified?

#### **Council's response**

9.10.1 Changes in response to Q9.5 propose that no additional floorspace be allocated at this site.

### **Inspector's Question 9.11**

Would proposed change PC/43 suitably address potential effects on the AONB?

#### **Council's response**

9.11.1 Criterion 5 of the policy sets out the specific mitigation measures to address potential impacts of development on the AONB and its setting. PC/43 provides additional clarification to confirm that a LVIA should specifically address the impact on views to and from the AONB.

### **Inspector's Question 9.12**

Is Boxley PC's requested modification to soundness or could it be adequately addressed through the Travel Plan approval process?

#### **Council's response**

9.12.1 Boxley Parish Council requests that paragraph 13.9 of the supporting text and criteria 13 and 23 of the policy be amended to refer to transport links to Bearsted and Bearsted train station. The Council considers that these changes are not necessary to make the policy sound and that appropriate public transport links will be confirmed through the Travel Plan process (criterion 14).

### **Inspector's Question 9.13**

What is the reason for PC/44 and is that change necessary for soundness?

#### **Council's response**

9.13.1 The change is not considered necessary for soundness; it simply recognises that satisfactory bus/emergency access may be achieved without the necessity for a separate access from A249. The solution will be confirmed through the planning application process with the expert input from the Highways Authority.

9.13.2 If this proposed change is supported, a consequential change would also be needed to paragraph 13.9 of the supporting text, as follows;

PC/107	Amend the second sentence of paragraph 13.9 to read:  Vehicular access to the site will be taken from the New cut roundabout, with bus and emergency access from the A249 Sittingbourne Road, <i>if required</i> .	To ensure the supporting text reflects the revised content of the policy.
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## **Inspector's Question 9.14**

Would MBC please provide an update as to the ownership and planning status of this site and any implications for the Local Plan?

### **Council's response:**

9.14.1 MBC and KCC have jointly purchased the site from Royal Mail in September 2016 and have formed a partnership to progress the project. Network South East own the Southern element of the site surrounding Maidstone East Station and have engaged in an overall discussion. The establishment of a masterplanning process is being actively discussed. The resulting work will help establish design parameters and proposed uses for the site.

9.14.2 The Royal Mail site is the subject of an application for a 5 year temporary change of use to car-parking and use by charities for storage, office and retail which was submitted in October 2016. There is a retail and residential application submitted in 2014 which is held in abeyance.

9.14.3 The forecourt of Maidstone East Station is subject to an improvement proposal the details of which are as follows:

- WSS on behalf of Southeastern have undertaken outline design (GRIP 3) for the station  
Project handed over to Network Rail to complete design and deliver works.

Funding package confirmed as £1m NSIP contribution and £999,999 from Kent County Council

Scheme confirmed as being under Permitted Development

Key enabler to the scheme is the demolition of the Old Vic pub

- Key project milestones
- By March 2017 Network Rail to complete outline and detailed design

Summer 2017 – Commence site works with practical completion by March 2018  
(Indicative)

9.14.4 The above progress and activity indicates that the site is in active development for a range of policy compliant uses. The active engagement by the Council including recently purchasing the site should be seen as a strong indication of its likelihood to come forward for development in the near future.

**Inspector's Question 9.15**

Does this site qualify as in centre, edge of centre, or out of centre for retail and for other main town centre uses?

**Council's response:**

9.15.1 The site qualifies as an edge of centre site with respect to retail uses. For other town centre uses it is within the town centre (see Town Centre boundary on page 34).

**Inspector's Question 9.16**

Should it be subject to a sequential test and/or a retail impact assessment prior to allocation?

**Council's response:**

9.16.1 The response to Q9.5 sets out how a sequential approach has been followed to the allocation of sites in the Local Plan. No 'in centre' site within the primary shopping area came forward, with the exception of the longer term redevelopment proposal for The Mall.

**Inspector's Question 9.17**

In what circumstances would MBC release the site for retail development?

**Council's response:**

9.17.1 The Employment and Retail Topic Paper (document SUB 003) explains that the site, which is in the ownership of the Council, is a well-used car park which is not being actively marketed for development at this point in time. This will be kept under review and the Council, as landowner, would respond positively to approaches at any time from retail developers.

**Inspector's Question 9.18**

Does this site qualify as in centre, edge of centre, or out of centre for retail and for other main town centre uses?

**Council's response:**

9.18.1 The site is out of centre for retail purposes and in centre for other town centre uses.

**Inspector's Question 9.19**

What effect may permission for a Waitrose store at Eclipse Park have on the implementation of the Baltic Wharf retail development and/or the Maidstone East retail development?

**Council's response:**

9.19.1 The Baltic Wharf site has had a retail consent for over two years without implementation. We feel it is unlikely to come forward in its approved format.

9.19.2 The Council's retail consultant in his Proof of Evidence for the Baltic Wharf Appeal dated April 2014, stated: "*The appeal site is a commercially unattractive site for a new food superstore and would be very unlikely to attract a retailer to operate it*".

9.19.3 This view is also shared by the Council's consultants in their comments on the current application at Maidstone East. In their letter of 16 December 2014, they state: "*We maintain (as per the evidence of Jonathan Baldock for and on behalf of MBC at the Powerhub Appeal) that the Powerhub site is very unlikely to attract a food/non-food superstore operator given its very secondary location in commercial retailing terms. The site is much too compromised, as follows...*

- *The store would be at second floor level;*
- *It would have multi-storey car parking underneath;*
- *The river is between the store and the main roads from which it can be seen;*
- *Car access from any main road is indirect;*
- *The site is not on any bus routes and there are no bus stops nearby;*
- *The pedestrian routes to the town centre shopping and services are long, indirect and unattractive; and*
- *The store would be in a listed building.*

9.19.4 It is therefore the Council's view that the Waitrose proposal, if permitted, would be of limited impact on the delivery of the Baltic Wharf consent.

9.19.5 In terms of Maidstone East, there has been some progress and the site has been recently purchased by MBC and KCC. Work is underway between the landowners to develop a comprehensive proposal for the site but will take some time to come to fruition. A planning application has recently been received for temporary car parking, office and retail uses.

9.19.6 Maidstone East is the Council's priority site for retail in the town centre, signalled by its positive allocation in the emerging Local Plan. Waitrose could form an appropriate component of development on this site. Granting consent for Waitrose at Eclipse could have some adverse effect on the prospects of a retail led scheme coming forward on Maidstone East and the Royal Mail Sorting Office site in the short term as it would be likely to mean there would be one less operator to be interested in the site plus some trade will be diverted from the Town Centre. While this site is considered to be suitable, and every prospect that it would come forward in the future particularly as the Council has a stake in its delivery, at the point of determining the Waitrose application it is considered not demonstrably available whilst the new site owners confirm arrangements between them.

## **Inspector's Question 9.20**

Is there any evidence that the viability of different forms of development of the Baltic Wharf site has changed since the 2014 appeal?

### **Council's response:**

9.20.1 The attractiveness and value of residential conversions in Maidstone town centre have significantly increased since 2014. The evidence is as follows:

1. The Preliminary Draft charging schedule consultation for Maidstone Community Infrastructure Levy 2014 suggests a figure of £35 per m<sup>2</sup> for residential use for Urban – previously developed land. The 2016 Draft Charging Schedule suggests a CIL charge of £93 m<sup>2</sup> for residential (within the urban boundary).

2. Since 2014 there has been a large uptake of prior approvals for residential conversions from office to residential in Maidstone Town Centre. This shows there is a robust market for such a product. Appendix D (8.2) of the Housing Topic Paper provides further details of relevant market activity and future potential.

9.20.2 Further, this has coincided with the major supermarket retailers moving away from investment in new larger format stores such as that permitted at Baltic Wharf.

9.20.3 The Revised Plan and CIL Viability Study (DEL 002) undertaken since the Baltic Wharf appeal decision confirms that factors relating to build costs have improved in the period since May 2013. The Study states the following;

*"8.1.5 Since the previous report there have been a number of changes in how costs are considered within the viability assessment. These changes are a result of a number of factors, including experience gained at Examination, peer review and improved market conditions. A summary of these changes is set out as follows:*

- o externals are reduced to 10% of build costs as opposed to 15%*
- o 10% of build cost for professional fees is reduced from 12%.*
- o profit that developers may gain from affordable housing has fallen from 8% to 6%.*
- o there is evidence to suggest finance costs have fallen considerably since the previous study where 8% was used - a figure of 6% is now used*

*8.1.6 Although these changes seem relatively small they can have a big impact on the viability assessment"*

## **Inspector's Question 9.21**

Would MBC please comment on the specific policy changes sought by R19143 to SP4 and the requested additional allocation?

### **Council's response:**

9.21.1 The requested change to specifically allocate the site for retail use is not supported for the following reasons:

1. The site has an extant consent for retail use and it is considered unnecessary to allocate for that use in such circumstances;
2. A retail allocation on this site could bring into question the retail allocation RMX1 (2) Maidstone East which is considered to be a more appropriate site for such uses. This site can deliver a retail-led scheme, including public realm improvements and improved transport interchange in a location with direct walking connections to the core of the town centre.
3. The fact that the site has currently got a retail planning permission which has not been brought forward suggests that such a use is not attractive to the market leading to questions about deliverability.
4. Other uses, most notably residential conversions, have become more attractive in the town centre since 2014. A specific retail allocation for Baltic Wharf could limit the opportunities to consider such other uses, which would need to be in keeping with the listed building status in any event.
5. The site is not physically suitable for retail use as shown in 9.19 above.

9.21.2 The Council feels that the proposed wording of SP4 (2) i) already adequately ensures that the need to conserve and enhance the town centre's heritage assets is covered. Specific reference to enabling development is not felt necessary and would need to be evidenced on a case-by-case basis.

9.21.3 Policy H2 (1) has been adjusted to reflect additional residential opportunities in the town centre.

### **Inspector's Question 9.22**

Does MBC's estimate of the housing to be delivered in the Policy H2 Town Centre Broad Location include any dwellings on the Baltic Wharf site?

### **Council's Response:**

The Borough Council's estimate for the Town Centre Broad Location does not include a specific estimate for Baltic Wharf. Rather the Council uses this as an example of a site which may contribute a number of dwellings during the plan period.