

North Loose Residents Association

North Loose Neighbourhood Development Plan 2015 – 2031

Submission Version

Independent Examiner's Report

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Summary

I have been appointed as the independent examiner of the North Loose Neighbourhood Development Plan.

North Loose falls within the southern urban area of Maidstone. The Plan has been developed by a Neighbourhood Forum that has its roots in an active Residents Association. The Plan particularly seeks to address two major areas of concern to residents; those of traffic congestion and air quality. As a result it has a suite of policies aimed at improving the overall quality of life and well-being of those who live and work in the area. These range from policies that enhance movement across the area, conserve important open spaces, provide for homes and support businesses and services.

Earlier this year, I commenced an examination into the Plan, but it transpired that the pre-submission consultation period undertaken had unfortunately fallen a little short of the regulatory requirements. As a result the Plan was withdrawn from examination whilst pre-submission consultation, submission to Maidstone Borough Council and submission consultation took place in line with the Regulations. During this period the Forum took the opportunity to make some revisions to the Plan.

Further to consideration of its policies I have recommended a number of modifications to policies in the Plan that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear, consistent and able to provide a practical framework for decision making.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am delighted to recommend that the North Loose Neighbourhood Development Plan go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

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18 December 2015

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1.0 Introduction

This is the report of the independent examiner into the North Loose Neighbourhood Development Plan (the Plan). The Plan has been developed by the North Loose Residents Association (NLRA) as a designated neighbourhood forum (the Forum).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

The North Loose area falls within the urban area of Maidstone and is situated some 2 miles south of the town centre, at the head of the Loose Valley. Running through the area is a north-south spine road, the A229. The area has just over 2,400 homes, many different businesses, a school, leisure and sports facilities including allotments, and a variety of services. The residential areas have an interesting and varied character. The area has two identifiable hubs with a range of local shops and facilities centred around the Swan and the Wheatsheaf public houses.

The community considers that the area is under pressure from development. The Plan seeks to ensure that new development does not exacerbate well documented issues of poorer air quality and traffic congestion, but instead can be viewed as positively contributing to the achievement of sustainable development and bringing benefits for the well-being of the area's residents and businesses, enhancing the overall quality of life.

I was appointed to undertake an examination of the Plan in Spring 2015. During the course of that examination it became apparent that the pre-submission consultation period (Regulation 14) had unfortunately not met the relevant Regulation as it was two days short of the minimum six-week period required.

Whilst all the parties agreed that the effect of the consultation period being short of the minimum requirement had had little material effect, the Plan did not comply with the Regulations and as a result would have been vulnerable to challenge. As a result it was decided that the Plan would be withdrawn from examination and that a 'second' Regulation 14 consultation would be undertaken which in itself would meet the Regulations and be a genuine consultation. This Regulation 14 pre-submission consultation was based on the Regulation 16 submission version of the Plan.

The Forum has met the obvious disappointment and frustration about the circumstances that led to the withdrawal of the Plan from examination earlier this year with great fortitude.

After the requisite pre-submission consultation, submission to Maidstone Borough Council (MBC) and Regulation 16 consultation undertaken by MBC, I was appointed in

Autumn 2015 by MBC with the agreement of the Forum, to undertake this independent examination.

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

The examiner is required to check¹ whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

¹ Set out in paragraph 8 (1) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Maidstone Borough Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 Compliance with matters other than the basic conditions

I now check the various matters set out above in section 2.0 of this report.

Qualifying body

A designated neighbourhood forum is an organisation or group empowered to lead neighbourhood planning in an area where there is no town or parish council. In order to be designated the organisation must apply to the local planning authority to be

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

designated. The application must show how the conditions for forum designation⁵ have been met.

The North Loose Residents Association was approved by MBC on 30 May 2013 as a Neighbourhood Forum. A copy of the decision is included as Appendix 1A to the Basic Conditions Statement. The NLRA has a minimum of 21 individuals, a written constitution and exists for the purposes of promoting the quality of life for residents, the environment and amenities of North Loose. This requirement has been satisfactorily complied with.

Plan area

The Plan area was approved by MBC on 18 December 2012. A map of the area is to be found on page 3 of the Plan.

Plan period

The Plan covers a period of 2015 to 2031. This is stated clearly on the front cover and again on the contents page.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. I note the Plan itself recognises that some of the issues and solutions that arose from community engagement are not planning issues and fall outside the scope of the Plan.

Where I consider a policy or proposal to fall within this category, I have recommended it is made clear that this is the case or that it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.⁶ Subject to any such recommendations, this requirement can be satisfactorily met.

⁵ Set out in section 61F(5) of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004

⁶ PPG para 004

4.0 The examination process

It is useful to bear in mind that the examination of a neighbourhood plan is very different to the examination of a local plan.

The general rule of thumb is that the examination will take the form of written representations.⁷ However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case.

After consideration of the documentation and all the representations, I decided it was not necessary to hold a hearing.

I undertook an unaccompanied site visit to North Loose and its environs on 1 April 2015.

I would also like to record my thanks for the exemplary support that the officers at MBC have given me during the course of the examination.

Where I recommend modifications in this report they appear in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

5.0 Consultation

The Forum has submitted a Community Consultation Statement (CS) which provides details of who was consulted and how, together with the outcome of that engagement process.

The CS is a well-written, clear and comprehensive document that demonstrates that opportunities for engagement have been frequent and plentiful. There is recognition of some 'harder to reach' groups within the community and steps have been taken to address their needs. In addition it was recognised that Mangravet Recreation ground was also used by residents living outside the neighbourhood plan area and a meeting held to invite those residents living outside the Plan area. This holistic approach is to be commended.

A variety of methods have been used to engage and consult with both residents and businesses. The mainstay of these methods have been questionnaires, commendably tested and piloted before wider circulation, and various events.

Each household has also been directly approached through leaflets and other material hand-delivered a number of times.

⁷ Schedule 4B (9) of the Town and Country Planning Act 1990

The NLRA has a regular newsletter, notice board and its own website and runs a number of social events. It has taken a positive and proactive stance in reaching out not just to its members, but everyone in the community.

The CS details the sequence of events that led to the first submission of the Plan and examination and its subsequent withdrawal and explains what has happened from that point onwards.

As a reminder, pre-submission consultation on the Plan was first carried out between 12 May – 20 June 2014. The Plan was formally submitted to MBC on 19 December 2014. Regulation 16 consultation was carried out between 16 January – 27 February 2015 and submitted for examination in March 2015. Unfortunately during the examination it came to light that the pre-submission consultation stage was just short of the six-week period prescribed by the Regulations. Whilst all parties agreed that the effect of this had had little material effect, the Plan did not comply with the Regulations and therefore would have been vulnerable to challenge.

The CS considers the representations received during Regulation 16 consultation held during January and February 2015. It confirms that the Regulation 14 period of consultation pertaining to this examination was undertaken using the (previously) submitted (Regulation 16) version of the Plan.

Regulation 14 consultation in relation to the Plan subject of this examination was carried out between 9 May – 21 June 2015. The CS explains that all relevant Schedule 1 consultees and NLRA members were emailed about this consultation stage. Any representators from either the Regulations 14 and 16 stages on the previous version of the Plan were advised that any previously submitted comments would be automatically considered unless they advised differently. The draft Plan was made available at various locations and on the website. Two meetings were also held. The CS explains the situation well and contains a series of tables that clearly differentiate the various consultation responses. I am grateful for the thoroughness of both the approach taken and the explanation.

The Plan subject of this examination was formally submitted to MBC on 9 August 2015. Regulation 16 consultation was carried out between 11 September – 23 October 2015. This attracted a number of representations which I have taken into account in preparing this report. I confirm that in line with the CS I have also had due regard to the submitted representations at the previous Regulation 16 stage.

I am confident that the Plan has emerged as a result of seeking, and taking into account, the views of residents and the wider community and other bodies.

I have specifically referred to some representations and sometimes identified the person or organisation making that representation. However, I have not referred to each and every representation in my report. Nevertheless each one has been considered carefully and I reassure everyone that I have taken all the representations received into account during the examination.

In the next few paragraphs I discuss representations that make points not covered elsewhere in the report.

Representations⁸ suggest the Plan does not plan for housing needs or growth and fails to acknowledge the emerging Maidstone Borough Local Plan. As I explain later there is no requirement for me to examine the Plan against any such emerging document, but the Plan has taken account of the emerging planning context.

On the first issue the Plan does not have to deal with every or all issues comprehensively. There is no compulsion for the Plan to allocate sites for future housing or any other type of development. MBC particularly expresses concern that a proposed allocation in the emerging Local Plan for housing on land at the New Line Learning site is not included in the Plan. The fact that the Plan has chosen not to allocate sites does not mean that the Plan cannot positively plan for the future or that it will thwart the Borough Council's ability to plan positively or meet its housing needs. The lack of such an allocation does not prevent the Borough Council from putting it forward in its own local plan.

Another representation⁹ makes a persuasive case for the inclusion of different infrastructure provision to be included. Where I make recommendations for modifications I have done so with a view to ensuring that the basic conditions are met, that the policies do as a whole plan positively and will help to achieve sustainable development in line with national policy and advice. However, it is not my role to add to the Plan, but rather to examine what is in front of me.

Other representations, including one from Southern Water, request support for a policy for new and improved utility infrastructure or feel the Plan could have gone further with its coverage and in some of its policies. This is largely a matter for the qualifying body and should the Plan be reviewed I feel sure the Forum will bear these points in mind. The issues raised are not ones that I feel are necessary, however desirable, for me to include as modifications to enable the Plan to meet the basic conditions.

6.0 The basic conditions

National policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (the NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use

⁸ DHA Planning; Maidstone Borough Council and Mr. David Knight

⁹ Kent Police Representation dated 19 January 2015

Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹⁰

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹¹

On 6 March 2014, the Government published a suite of planning guidance. This is an online resource available at www.planningguidance.planningportal.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning which is updated from time to time and I have had regard to this in preparing this report. This is referred to in this report as Planning Practice Guidance (PPG).

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹²

PPG indicates that a policy should be clear and unambiguous¹³ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that it should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

Sustainable development

A qualifying body must demonstrate how a neighbourhood plan contributes to the achievement of sustainable development. The NPPF as a whole¹⁴ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development; economic, social and environmental.¹⁵ The Basic Conditions Statement offers an explanation of how the Plan contributes to the achievement of sustainable development.

Planning Policy Context

The development plan consists of the saved policies of the Maidstone Borough-Wide Local Plan and its Proposals Map adopted in December 2000 (LP 2000).

¹⁰ NPPF paras 14, 16

¹¹ *Ibid* para 184

¹² *Ibid* para 17

¹³ PPG para 041

¹⁴ NPPF para 6 which indicates paras 18 – 219 constitute the Government's view of what sustainable development means in practice

¹⁵ *Ibid* para 7

The LP 2000 has a number of strategic objectives which I consider the Plan has taken into account and generally conforms with. MBC have helpfully confirmed that the Council considers the Plan is in general conformity with the adopted Maidstone Borough-Wide Local Plan 2000.

MBC are currently preparing a new Local Plan known as the Maidstone Borough Local Plan. This emerging Local Plan provides a framework for development up to 2031 and will replace the LP 2000 once adopted. The latest position on the new Local Plan's progress, according to the Borough Council's website, is that the Regulation 18 draft consultation period ran from 21 March – 7 May 2014. A further period of Regulation 18 consultation has been carried out between 2 – 30 October 2015 on what is described on the website as "focused consultation on selected aspects of the Local Plan and includes new, amended and deleted site allocations for housing, employment, park and ride, gypsies and travellers and strategic open space as well as policy revisions relating to landscape and new policy for nursing and care homes.

For the avoidance of doubt where I have referred to this emerging draft Local Plan I have done so as 'MBLP 2014'.

The Basic Conditions Statement acknowledges that the Plan has been prepared taking the emerging Local Plan into account. This is to be regarded as good practice, but does not form part of the examination as the relevant basic condition refers only to the need for the Plan to be in general conformity with the strategic policies of the development plan i.e. the adopted Local Plan.

The Plan and some of its policies make reference to some emerging Local Plan policies. There is a risk that these emerging policies may be changed or even deleted in the adopted version of the new Local Plan rendering any references or reliance on them pointless. As a result I consider it would be better for references to any emerging MBLP 2014 policies or proposals to be deleted (although the issues raised could be retained as appropriate). For example reference could still be made to the MBLP 2014 and the issues coming through it such as the amount of development or air quality but specific reference to a draft policy such as in HWTA Policy 1 should be deleted. This also applies to exercising care in referencing any other draft documents where their status may be uncertain. This modification is suggested in the interests of providing a practical framework for decision making in line with national policy and advice. In the interests of brevity I do not repeat this modification throughout the report.

The following modifications are therefore suggested:

- **Delete specific references to emerging MBLP 2014 policies or proposals from the policies and supporting text as appropriate with any necessary consequential amendments**
- **Check any references to any other draft documents are appropriate**

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant.

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A screening assessment has been carried out by MBC in August 2015. This concluded that there are unlikely to be any significant environmental effects arising from the Plan and that an environmental assessment is not required. This is also reaffirmed in MBC's representation dated 6 October 2015.

The screening assessment has been considered by Natural England, English Heritage and the Environment Agency. None of these three statutory consultees disagreed with the Council's conclusion.

I am therefore satisfied that the Plan does not require a SEA to be carried out.

Habitats Regulations Assessment

There are no European sites within the Plan area, although Maidstone Borough has two sites of European importance; North Downs Woodlands and Queendown Warren are both Special Areas of Conservation.

MBC has confirmed that a Habitats Regulations Assessment is not required. Natural England has also confirmed that this is their view.

European Convention on Human Rights (ECHR)

The Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

Other Directives

No other European Directives have been directly referred to in the Plan. However, given the content of the Plan and its focus on air quality, I am mindful of the 2008 Ambient Air Quality Directive. I am not aware of any other European Directives which

apply to this particular neighbourhood plan and in the absence of any substantive evidence to the contrary, I am satisfied that the Plan is compatible with EU obligations.

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

Overall the Plan is presented well. The front and back covers are eye-catching and it is useful to have a contents page. The Plan is packed full of illustrative material and interesting photographs which really give a flavour of the area. Policies are clearly distinguished from text as they appear in coloured, shaded boxes. A useful glossary of terms is included at the end of the document.

However, some policies have titles, others appear to have what is in effect the first sentence of the policy highlighted in bold. It would be helpful if there was consistency and I consider it would form more of a practical framework in line with national policy and advice if the policies all had titles that reflected their contents. As a consequence where policies have no title or could be made clearer by having a different title, I have recommended such a modification.

It is also unclear to me why some text in some policies is in larger bold lettering and some is in smaller lettering. In the interests of clarity and consistency, I recommend that all wording in each policy be presented in the same, and consistent, way. For brevity I do not repeat this modification all the way through this report, but it should be taken to apply throughout the Plan as appropriate.

- **Ensure that all policies are presented in a consistent way with the same style, size and type of lettering throughout**

Vision towards 2031

Right at the start of the Plan and sitting underneath the overriding ‘strapline’ which also appears on the front cover “where town and country meet”, is a clearly articulated vision. The vision states:

“Our vision is to maintain and raise the quality of life for present and future residents and businesses by improving services; by carefully managing the provision of new homes, our ancient woodlands and open spaces and also by improving ease of movement across our community – to remain where Town and Country meet.”

Foreword

A useful explanation of how the Plan has come about and how it fits into the wider policy context. This section also has a clear map showing the neighbourhood plan area.

1 Introduction and vision

This section sets the scene for the Plan. It contains information about the Forum and the characteristics and history of the area including some interesting photographs.

It details the thinking behind embarking on the production of the Plan highlighting concerns about traffic and air quality in particular. It sets out a number of aims for the Plan on page 6.

It highlights the desire to work in partnership with stakeholders and other bodies to achieve the Plan's objectives and considers how the Plan might be implemented together with references to a Delivery Strategy. This document is titled 'Plan Delivery and Implementation Strategy'. In the interests of clarity and consistency references to the Strategy and its title should tie up. Therefore I recommend that either the Plan refers to the full title of the document or the document's title is changed to 'Delivery Strategy', it is up to the Forum to consider which they might prefer. Also to note that as result of some of the recommended modifications, consequential revisions to the Delivery Strategy may be required.

Paragraph 1.20 on page 7 indicates that the Plan will be monitored and reviewed every five years. This approach is to be commended as it recognises the status of the Plan, the need to work alongside others and the dynamism of planning and I feel is particularly useful given the stage of Maidstone Borough Council's emerging Local Plan.

I therefore recommend that:

- **The Plan should be consistent in its approach when referring to the 'Delivery Strategy' document**
- **Some revisions to the 'Delivery Strategy' document may be needed as a result of some of the modifications recommended in this report**

2 Health, Well-being and Transport Alternatives

A number of policies are included in each section which are preceded by supporting and explanatory text. The text generally identifies and explains the issues well, referring in turn to other documents and evidence.

I have already made the point, and it is one that applies throughout the Plan (so I will not repeat it again), that it is worth considering whether it would be better to remove direct references to the emerging Local Plan as this will mean the Plan is less likely to date quickly. This comment also applies to other draft documents, some of which have (usefully) been used as evidence to inform the Plan alongside evidence specifically collected by the Forum such as the traffic surveys.

Kent Police¹⁶ point out that the section gives the impression that the current design and layout of development with its loop roads and cul-de-sacs is poor for health, but that a rather narrow interpretation of health and healthy communities has been taken. They express concern about this interpretation and the stance of some policies and I would urge the Forum to consider this representation carefully.

Paragraph 2.21 refers to a new cycle route and greenway shown on Figure 1 as a key element of the Plan. This has already been mentioned in the preceding section and is clearly of importance to the community. However, there is no policy in the Plan that specifically refers to this and therefore it can only be regarded an aspiration. As a result this should be moved to a separate section or appendix of the Plan or it should be made clear that this aspiration does not form part of the Plan.

Paragraph 2.22 has a small typo in it; “a” rather than “aa”.

I therefore recommend that:

- **Ensure that any references to the proposed new cycle route and greenway make it clear that this is an aspiration which does not form part of the Plan (this applies to any references to this proposal throughout the document)**
- **Correct the typographical error in paragraph 2.22**

HWTA Policy 1

This policy requires new development to contribute to, or provide, new ‘community infrastructure’ on or off site to improve the health and well-being of residents. It refers to the Delivery Strategy which in turn identifies this as ‘necessary’ and indicates this might include a sports building or outdoor facilities, but I cannot find a definition or any indication of what ‘community infrastructure’ might mean or include.

The policy refers to LP 2000 Policy CF 1 and MBLP 2014 Policy ID 1. I note that in the text supporting MBLP 2014 Policy ID 1, ‘community infrastructure’ is mentioned and described as “such as schools, adult social services and cultural facilities”. This seems to be at odds with the tenor of this section of the Plan and also with the Delivery Strategy. I wonder therefore whether the term has been confused with the ‘community

¹⁶ Kent Police representation dated 23 September 2015

infrastructure' that is part of the phrase 'community infrastructure levy' and on this assumption consider that it would be more in line with the tenor of the section if this policy just referred to 'infrastructure'.

The Delivery Strategy rightly points to three tests that must be met if developer contributions are sought. Those three tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 and as policy tests in the NPPF. The three tests are: 1) necessary to make the development acceptable in planning terms, 2) directly relate to the development and 3) fairly and reasonably relate in scale and kind to the proposed development.

The Plan is right to consider how its policies and proposals are to be implemented. However, national policy and advice requires that development sites should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

PPG goes on to say that whilst understanding viability is critical, this should not undermine ambition for high quality design and wider social and environmental benefit, but that such ambition should be tested against the realistic likelihood of delivery.

Any policy that seeks obligations should therefore be grounded in an understanding of development viability and any obligations should take into account the circumstances of each site and requirements should be flexible.

It seems to me that the Plan has considered what additional infrastructure might be required to enable development to be delivered in a sustainable way. It seeks to deliver these requirements through developer contributions, but there is little evidence to show what the impact of such requirements might be on the viability of proposals.

In order to meet the basic conditions, to take account of the thrust of national policy and guidance and to provide a practical framework, **the policy should be modified in the following ways:**

- **Reword Policy HWTA Policy 1 as follows:**

“New development will be expected to provide or contribute towards the provision of infrastructure and other measures that would contribute to the health and well-being of residents subject to an assessment that will include consideration of the development and site-specific issues and viability where necessary.”

- **Add title to the reworded HWTA Policy 1 of “*Promotion of Healthy Communities*” or similar**
- **Consequential amendments may be required to the supporting text and the Delivery Strategy**

HWTA Policy 2

This policy seeks to address one of the key issues raised in the Plan; that of air quality. Specialist technical advice has been sought by the Forum and an advice note from URS has been included as Appendix 2 of the Basic Conditions Statement. This explains that Maidstone Borough Council has a duty under the air quality management regime to carry out regular assessments of air quality against national air quality objective values. If it is found that the objectives values are unlikely to be met in a given timescale, an Air Quality Management Area (AQMA) is designated together with the production of an Air Quality Action Plan (AQAP). The URS report explains that the majority of the North Loose area falls within an AQMA. The highest area of concentration of nitrogen dioxide is in the area of the Wheatsheaf Public House where there is what URS describes as a “congested junction”.

As well as seeking out specialist advice, the Forum has carried out a comprehensive traffic survey in 2012/2013 that is included as Appendix 4 of the Basic Conditions Statement.

This policy then refers to the local plan and the AQAP requiring developers to show how proposals maintain or improve air quality and refers to a Technical Appendix 1 Air Quality Assessment. The policy reflects wording put forward and suggested by URS in their technical advice to the Forum. The wording of Technical Appendix 1 also mirrors the suggestion from URS.

Given that air quality is a prime concern of the Plan, it is appropriate that the Plan seeks to prevent unacceptable risks from pollution occurring and to ensure that the effects of pollution on health are taken into account. This policy therefore accords with the thrust of the NPPF and is in line with PPG which confirms that air quality concerns can be relevant to neighbourhood planning and adds an additional layer of detail reflective of local circumstances. It will help in the achievement of sustainable development.

In terms of the specific requirements of the policy, any assessments should be proportionate to the nature and scale of the proposal and the level of concern about air quality and it seems to me that the way in which the policy is worded together with the technical appendix provides a satisfactory combination of information sought and flexibility.

Therefore in order to meet the basic conditions, in the interests of clarity, only **the following modifications are recommended:**

- **Add title “Air Quality”**
- **Add at the end of criterion c) “Air Quality Assessment” after “Technical Appendix 1”**

HWTA Policy 3

This policy follows on from the overall concerns about air quality and addresses transport concerns, particularly those of congestion around existing junctions and the cumulative impact of proposals. The NPPF confirms that transport policies have a role to play in both facilitating sustainable development and contributing to health objectives. It seems to me to be a clear aim of the Plan to ensure that new development does not make matters worse, but also actively tries to encourage solutions.

Therefore in order to meet the basic conditions, the only modification needed is:

- **Add title “*Transport Considerations*” or similar**

HWTA Policy 4

This policy seeks to ensure that all new development is well connected, providing convenient, safe and direct links for pedestrians and cyclists to local facilities and Maidstone town centre.

This in itself is a laudable aim that will help to increase connectivity and promote well-being and health opportunities by providing more and better routes. This chimes with the NPPF stance that policies should protect and enhance public rights of way and access. Having established that the area is characterised by cul-de-sacs and few through routes, this policy takes the opportunity to improve the character and quality of the area and the way it functions. However, I note that Kent Police have expressed some concern about the implications of opening up routes and I would urge the Forum to have regard to the points made in their representation. In addition such a policy will also contribute to mitigating the air quality and traffic concerns the Plan has identified. It reflects the stance of the LP 2000 to improve and extend the footpath, cycleway and bridleway networks.

Yet it must be recognised that the policy as currently worded applies to all new development; this could be an extension to an existing dwelling where little opportunity would be available to undertake such a requirement and there may be other cases where this requirement, taken in association with others, may render development unviable and undeliverable. Therefore in order to ensure that the policy does not adversely affect viability and deliverability, to bring it in line with national policy and advice and taking account of the concerns of Kent Police, **I recommend that the following modifications be made:**

- **Reword Policy HWTA Policy 4 as follows:**

“New development should be well connected and demonstrate how it relates to existing pedestrian and cycle routes and take any opportunities available to provide new, or improve existing, convenient, safe and direct links for pedestrians and cyclists to local facilities and Maidstone town centre.”

- **Add title to the reworded Policy HWTA 4 “*Connectivity and Pedestrian and Cycle Links*” or similar**

HWTA Policy 5

This policy requires all new residential development (new build or conversions) to submit a Green Living Plan (GLP) at planning application stage and refers to a Technical Appendix. The supporting text explains this is to help residents assimilate into the community and to ensure a coordinated approach in reducing the impacts of new development. The glossary usefully includes a definition of GLP. Such a requirement therefore chimes with the overall thrust of the Plan in addressing areas of concern in the Plan area and its overall aim to promote sustainable development.

The Technical Appendix is titled as Technical Appendix 2 Green Living Plan and so for the sake of clarity and consistency the same name and numbering should be followed through in the policy.

Technical Appendix 2 itemises eight issues to be addressed that contribute to sustainable living. However, I am concerned about two issues. The seventh item relates to charging points for electric cars and a minimum of two car spaces per new residential unit to be provided. The car parking standard is subject to another policy later in the Plan (which I discuss and modify) and in any case it is not appropriate to alter car parking standards in this manner. Retention of the reference to electric cars is acceptable.

The eighth item is a request for “plus any reasonable items required by MBC”. I do not consider this rather open-ended request to provide a practical framework and it also puts the onus on another authority. Therefore this item should be deleted from the Appendix.

In order to meet the basic conditions, the following modifications are recommended:

- **Add title “*Sustainable Living*” or similar**
- **Refer to the Technical Appendix as “*Technical Appendix 2 Green Living Plan*”**
- **Delete the part of item seven that relates to car parking standards from the Technical Appendix and**

- **Delete item eight from the Technical Appendix in its entirety**

HWTA Policy 6

This policy introduces a presumption in favour of new development if it results in the continued management, positive use and where possible an increase in the amount of publicly available green infrastructure “highlighted by the Plan”. Whilst there is some ambiguity here and potentially some unintended consequences of introducing such a presumption, the sentiment of the policy accords with the basic conditions and these concerns can be dealt with by way of modification. Green infrastructure networks can help to provide a range of environmental and quality of life benefits for local communities. It also marries up with the Plan’s quest to address concerns about air quality and pollution. A definition of green infrastructure is also to be found in the glossary.

The modifications recommended are to help with clarity and to provide a practical framework:

- **Reword HWTA Policy 6 as follows:**

“New development that makes a positive contribution to the existing network of green infrastructure or provides an increase in the amount of publicly available green spaces will be supported.”

- **Add title “Green Infrastructure” or similar to the reworded policy**

HWTA Policy 7

This policy seeks to manage green spaces to maintain and improve the quality of life, to encourage sport and recreation, to enhance biodiversity and to assist in dealing with air quality. The basic premise of the policy is in line with the basic conditions.

LP 2000 Policies ENV22, ENV23 and ENV25 deal with development of existing open areas within the urban areas, the loss of open space or sports and recreation facilities and allotments respectively. Whilst the LP 2000 policies also consider other matters such as visual contribution amongst other matters, this policy reflects the relevant LP 2000 policies.

The NPPF¹⁷ also recognises the importance of open spaces and sport and recreation facilities. It states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment shows them to be

¹⁷ National Planning Policy Framework paras 73 and 74

surplus to requirements or replacement equivalent or better provision in a suitable location would be made or the development is for alternative sports and recreation provision, the needs for which clearly outweighs the loss. This is reflected in the policy.

The policy refers to Figure 4 (on page 15 in the next section). In addition the policy lists ten green spaces or types of area, but Figure 4 shows far more including some smaller areas. Figure 4 is useful in identifying the locations and extent of the areas listed. It seems to me that the most straightforward thing to do would be for the policy to simply refer to Figure 4 and delete the list of named areas.

I note that one of the areas identified in both the policy itself and on Figure 4 is the New Line Learning playing field. MBC is concerned about potential conflict as this site is the subject of a current planning appeal and is a proposed allocation for residential and associated development in the emerging Local Plan. As MBC recognise the Plan is examined in relation to the development plan for the area rather than any emerging Local Plan. It is however widely regarded as good practice for an emerging neighbourhood plan to take account of any emerging local plan and the same would surely apply in reverse. It is also fair to say that it is the more recently adopted plan which would take precedence so if, speaking generally, a local plan was adopted after the adoption of a neighbourhood plan it is the local plan that would take precedence. Nevertheless the potential for conflict between the two layers of plan-making is becoming ever more generally prevalent.

In this instance HWT A Policy 7 has been worded to allow for the loss of green and open spaces if it is found to be surplus to requirements or alternative equivalent provision can be secured. I have also carefully crafted a suggested rewording of the policy alongside those lines. This then, in my view, gives flexibility over this site's future, but ensures that the overall amount and quality of green and open spaces is not diminished.

It is also necessary to recommend some modifications to the policy in the interests of clarity and to provide a practical framework. There is a distinction between the term 'open space' used in general planning parlance and what might be more appropriately termed 'open land' or 'land which is open' i.e. free of development. Figure 4 also shows an area adjacent to the New Line Learning School playing field badging this as "existing farmland" in words, but as green and open space in the key which causes some confusion. Farmland would not usually fall within such a definition and this area can be readily distinguished from the other areas subject to this policy. It is not appropriate to include this area of land in this policy. Therefore this area should be deleted from Figure 4.

I also note that this land, together with the Mangravet Recreation Ground (also shown on Figure 4) also lies within the Southern Anti-coalescence Belt subject of LP 2000 Policy ENV32. Following a query to MBC, MBC confirm that it is their view that Policy ENV32 is a strategic policy. This policy resists any development that would significantly extend the urban area or consolidates existing areas of development with a view to ensuring that the urban area of Maidstone does not coalesce with the rural settlements surrounding the urban area.

The modifications I recommend here also take into account the discussion on the subsequent policies in the Green Spaces, Sports and Recreation section and should be read in the light of my comments made in relation to those policies as well.

Therefore in order to meet the basic conditions, the following modifications should be made:

- **Reword HWTA Policy 7 as follows:**

“The green spaces, playing fields, allotments, ancient woodlands and other areas used for sports and recreation purposes identified on Figure 4 on page 15 will be conserved and enhanced to maintain and improve the quality of life for residents, to encourage health, recreation and sport opportunities, to encourage opportunities for these areas to be used as an educational resource, to promote biodiversity and to help manage air quality.

Ancillary development relating to the primary use of the green spaces, playing fields, allotments and other areas used for sport and recreation purposes will be supported provided that it does not adversely affect the quality and use of the area.

Proposals for new development which would result in the loss of green and other spaces will not be permitted unless an assessment clearly shows the open space, buildings or land to be surplus to requirements or alternative provision of an equivalent or better quantity and quality would be provided on a suitably located site or the development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss. Any loss of green and other spaces should take account of the contribution that the area makes to the wider network of spaces and green corridors in the area. Any alternative provision should be made in locations that would ensure that the wider networks and green corridors are maintained and wherever possible enhanced.

Planning permission should be refused for development that results in the loss or deterioration of irreplaceable habitats including ancient woodlands unless the need for, and the benefits of, the development in that location clearly outweigh the loss.

Development for essential infrastructure will be supported where the benefits clearly outweigh any harm and there are no other reasonable alternative sites available.”

- **Add title “Green and Other Spaces” or similar to the reworded policy**
- **Remove the area notated as “existing farmland” from Figure 4**

3 Green Spaces, Sports and Recreation

This section emphasises the need to ensure that existing leisure and recreation facilities are improved. South Park falls partly within the Plan area, but extends northwards across Armstrong Road. South Park facilities which fall within the Plan area include football pitches, a children's play area and a car park. It is clearly a well-used and valued amenity. Paragraph 3.6 refers to the Park becoming a community asset "in 2014". Given that this date has passed, it would be useful to update this section in the interests of clarity.

Reference is made in paragraph 3.10 to future proposals for Mangravet Recreation Ground. These seem to me to be of a more aspirational nature and therefore should be moved to a separate section of the Plan.

Paragraph 3.15 includes mention of "an expected development proposal" and again it seems to me as if the contents of this paragraph is more aspirational rather than development and use of land matter. This then should be moved to a separate section of the Plan.

Overall there seems to me to be considerable overlap of the contents of this section of the Plan and some of the policies in the preceding section. Indeed some of the justification for the previous section seems to appear here although perhaps for different reasons.

It would however, seem sensible to me to relook at these sections and see if any revisions would be helpful to the sense and flow of the Plan, particularly given my recommendations on GSSR Policies 1 and 2.

Recommended modifications in the interests of clarity, providing a practical framework and ensuring the Plan deals with development and use of land matters are then to:

- **Update paragraph 3.6 as necessary**
- **Move paragraphs 3.10 and 3.15 and any related references insofar they refer to aspirations of the Forum to a separate and clearly identified non-planning section of the Plan or place in a clearly labeled Appendix**
- **Review sections 2 and 3 of the Plan and revise accordingly**

GSSR Policy 1

This policy seeks to maintain and enhance existing green corridors. Usually green corridors link a series of green spaces to provide a corridor for people or wildlife.

Two green corridors are identified in the policy; one, the New Line Learning playing field is described as being adjacent to the Mangravet Recreation Ground, but this is not the case according to the locations shown on Figure 4. This then leads to some confusion. I have also discussed at length the New Line Learning playing field site in the previous section. As currently presented, i.e. the submission version of, HWTA Policy 7 would appear to be at odds with GSSR Policy 1. This is because HWTA Policy 7 would permit development on any one of the areas in Figure 4 (in certain circumstances), but GSSR Policy 1 seeks to maintain the existing pattern of essentially two ‘corridors’ of adjacent or closely located green and open spaces. This is then an internal conflict within the Plan.

There is no mention of green corridors in the preceding supporting text or in the glossary. The supporting text does however refer to links between open spaces and “make a cohesive grouping of green areas with an open aspect”.¹⁸ Further more MBC have supported the principle of a green corridor linking the cemetery and Wheatsheaf junction through to open countryside. PPG¹⁹ explains that the benefits of green spaces are enhanced if they are integrated into a wider network. Therefore the principle of thinking about these individual spaces as forming part of a wider network and being part of the local character and townscape is accepted. Given that I recommend the rewording of HWTA Policy 7, I consider the most appropriate way of reconciling the two is to insert a further criterion to that (modified) policy (which I have shown in my recommendation on that policy).

The policy also refers to a buffer zone around ancient woodlands. This reference appears to come from standing advice²⁰ from Natural England which should be taken into account in the determination of planning applications. The buffer zone is described in that advice as a mitigation measure and is one of a number of measures that could be considered. The NPPF is clear that when determining planning applications, permission should be refused for development that results in the loss or deterioration of irreplaceable habitats such as ancient woodlands unless the need for, and the benefits of, the development in that location clearly outweigh the loss.²¹ HTWA Policy 7 in its modified form conserves ancient woodland amongst other things. Whilst the loss of ancient woodland is clearly of key concern to the community, the modified policy takes its lead from national policy and advice.

I note that the Woodland Trust has welcomed the recognition of ancient woodland in the Plan and in particular the need for buffer zones.

¹⁸ Paragraph 3.16 on page 14 of the Plan

¹⁹ PPG para 009 ref id 26-009-20140306

²⁰ Ancient woodland and veteran trees: protecting them from development updated 29 October 2015

²¹ NPPF para 118

A representation from Sport England also asks for recognition of their policy on development on playing fields and this comment applies to both GSSR Policy 1 and GSSR Policy 2. My suggested modifications to HWTa Policy 7 takes this into account.

Therefore as I have wrapped up the elements of this policy which are appropriate to retain in a modified HWTa Policy 7 there is no need to retain this policy given its shortcomings.

There will of course be a need to make consequential amendments to the supporting text.

The following modification is recommended:

- **Delete GSSR Policy 1 in its entirety**

GSSR Policy 2

This policy seeks to protect and enhance open spaces and ancient woodland. The policy names each space and refers to Figure 4 which identifies some spaces by name but not others.

The first space referred to is South Park. Both the areas of South Park, north and south of Armstrong Road appear in the policy. The policy and Plan as a whole cannot relate to areas falling outside of the designated Plan area. This is also the case with the Loose Valley which I understand also falls outside of the Plan area. In addition, there are other areas in the policy that do not appear to be shown on any Figure in this context such as the Swan Public House and garden.

Mention is made of a buffer zone around two areas of ancient woodland. However, given that one of the ancient woodland areas is hard up against the boundary of the Plan area it seems likely that such a buffer zone would, at least in part, fall outside the Plan area.

More fundamentally there is a considerable amount of overlap between the aims of this policy and that of HWTa Policy 7 which as now recommended for modification, conserves green spaces and protects the ancient woodlands identified on Figure 4. The reworded policy also brings in the essential infrastructure criterion contained in this policy.

Subject to further consideration as to whether any of the areas listed in GSSR Policy 2 should be brought forward to HWTa Policy 7, but bearing in mind my comments above, this policy should be deleted given the duplication with (modified) HWTa Policy 7.

In order to accord with national policy and advice, the following modification is recommended:

- **Delete GSSR Policy 2 in its entirety, but consider if any of the additional areas mentioned in the policy falling within the Plan area should be moved to fall within the modified HWTA Policy 7 and shown on Figure 4 having regard to my comments above**

GSSR Policy 3

This policy seeks to create new areas of public open space. The wording of the policy includes the phrase “opportunities...will be taken as they arise”. This seems to me to be too woolly as it could be readily argued that the opportunity did not arise and therefore no new open space would be provided.

The policy also in effect sets the future direction of the Hazlitt Place reservoir if the reservoir/pumping station functions cease. If the necessary consultations have been carried out and there are no implications for the SEA for example, this could either remain in the policy or form part of the supporting text or become an aspiration in a separate section of the Plan.

Therefore the following modifications are recommended:

- **Reword the policy as follows, subject to consideration of my comments about the Hazlitt Place Reservoir:**

“The creation of new public open space will be encouraged throughout the Plan area.

On cessation of any operational or functional use of the reservoir and land at Hazlitt Place Reservoir, this site, identified on Figure 4, will be used for open space, allotments or other leisure and recreational uses for the benefit of the community.”

- **Retitle the policy “New public open space” or similar**

As I have already indicated it would be worth considering whether this section and the preceding section would work better if joined together given the overlap between content and my suggested modifications. I recognise these are largely matters of presentation for the Forum and provided the content remains the same as per this report there should be no further implications for compliance with the basic conditions.

4 Sustainable Design

This section of the Plan contains five policies. The supporting text begins with a section on natural resources referring to the Government's zero carbon strategy and a Kent-wide initiative Climate Local, together with energy and water issues.

Sections on character and public realm follow. Reference is made to the Loose Road Area Character Area Assessment Supplementary Planning Document (SPD) adopted in 2008 and the Kent Design Guide. The Plan includes a two page spread summary that highlights some of the key features in the area (pages 22 and 23). Two locations for public realm improvements are identified; the Swan and Wheatsheaf Public Houses.

SD Policy 1

This policy focuses on seeking contributions to public realm improvements around the two centres identified on Figure 5. The initiative of enhancing the public realm around these areas will help to achieve sustainable development and support national policy and advice. In fact URS in their technical advice to the Forum reaffirm this by suggesting a policy along these lines to assist with improving the junction at the Wheatsheaf Public House.

I note that the LP 2000 identifies the Boughton Parade as a local centre. However, the area defined in the Local Plan as the local centre is different to that illustrated on Figure 5 and different again to the area described in the Character Area Assessment SPD.

The local centre described in the Plan as the Wheatsheaf Shopping Parade and identified on Figure 5 also differs in its extent to that shown as the Wheatsheaf Public House Junction in the SPD. It is not identified in the LP 2000 as a local centre for the purposes of LP 2000 Policy R10 as part of the retail hierarchy.

Both these local centres are however clearly defined on Figure 5 and given that the policy is concerned with public realm, it would just be practical to change the name from 'local centre' to something else such as 'key centre' or simply 'centre' to avoid any potential confusion with the Local Plan 2000 designations.

In order for the policy to be concise, precise and practical in line with national policy and advice, it should be reworded as follows:

- **Reword the policy as follows:**

“Improvements to the public realm in and around the two centres of the Wheatsheaf Shopping Parade and the Boughton Parade identified in Figure 5 will be encouraged and supported. New development is expected to contribute to enhancement work that could include the provision of street trees, improved

shop fronts, high quality surface materials, provision of cycle parking, increased security measures and the removal of street clutter and barriers to pedestrian movement.”

- Add title **“Public Realm Improvements”** or similar
- Change any references to **“local centre”** including on Figure 5 to **“centre”** or **“key centre”**

SD Policy 2

This policy specifically deals with the materials sought. It sends a clear signal as to the materials preferred, but has sufficient flexibility within its wording to ensure that this does not create onerous obligations on the development industry or individuals that might render development unviable. As it result it meets the basic conditions and the only modification recommended is to add a title for the policy.

- Add title **“Materials”** or similar

SD Policy 3

This policy seeks to encourage the use of solar panels and other energy technologies, but also then mentions surface water/sustainable drainage. It does not distinguish between domestic or non-domestic buildings, but applies to all new development.

Earlier this year, the Government announced reforms that extend permitted development rights for solar power generation on non-domestic buildings that came into effect from April 2015. There are already some permitted development rights for domestic properties.

The Government has created a new approach to setting technical standards for new housing development. A Written Ministerial Statement (WMS)²² made it clear that neighbourhood plans cannot set out any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. Optional new technical standards can now only be required through Local Plan policies. My reading of the WMS is that this part of this policy should therefore not apply to new dwellings.

In relation to sustainable drainage systems, the Government has confirmed its expectation that such systems will be provided in new dwellings wherever this is appropriate.²³ This WMS indicates that policies should ensure that sustainable drainage

²² Written Ministerial Statement 25 March 2015

²³ Written Ministerial Statement 18 December 2014

systems are put in place for developments of 10 dwellings or more or equivalent non-residential and mixed use unless demonstrated to be inappropriate. The current requirement for all new developments in areas at risk of flooding to give priority to the use of such systems continues to apply through national policy.

Therefore in order to meet the basic conditions, the following modifications are recommended:

- **Reword the policy as follows:**

“New development other than new dwellings which incorporates the use of solar panels and other energy generation technologies will be encouraged. Careful consideration should be given to the impact on heritage assets and buildings of local merit.

Developments of 10 or more dwellings, non-residential or mixed use development as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010 will be expected to put in place sustainable drainage systems for the management of run-off unless demonstrated to be inappropriate.”

- **Add title “Encouraging Sustainable Development” or similar**

SD Policy 4

Policy 4 deals with lighting and requires further details or a lighting assessment to accompany planning applications in certain circumstances. Artificial light is recognised in PPG as important for improving benefits such as sport and recreation, but also that it is not always necessary and can be a source of annoyance, harmful to wildlife, undermine enjoyment of the countryside or detract from the night sky. It is important that the right light is provided in the right place at the right time. PPG recognises that lighting schemes can be costly and difficult to change and therefore the design and planning stages are important. Therefore this policy accords with the general thrust of national policy and advice.

The requirement to submit further details or a lighting assessment in certain circumstances could however be regarded as onerous and imposes a requirement on the local authority at a time when the Government has legislated for less onerous evidence and information to be submitted with planning applications. Therefore this part of the policy should be deleted. This action would also generally accord with LP 2000 Policy ENV49 which refers to lighting, but does not specifically require an assessment. **The following modifications should be considered:**

- **Delete the sentences “Where this is in doubt, applications should be accompanied by sufficient details to ensure a proper impact of the**

development may be assessed. This could include a lighting assessment to ensure it complies with national and local requirements in both District/rural areas.”

- Add at the end of the (revised) policy *“Therefore it is expected that consideration will be given to any lighting at an early stage of design and planning so that this can be achieved”*.
- Add title *“Lighting”* or similar

SD Policy 5

This is a long and complex policy aimed at new housing development. Some of its contents overlaps with other policies in the Plan. For example there is a specific policy on materials, but this is unnecessarily duplicated by the second criterion of this policy.

In relation to density (criteria 1 and 5), again there is a policy that addresses this in the subsequent section. The introduction of a housing density ‘standard’ often negates the benefits of a design-led solution and can stifle innovation. The Plan offers little evidence of either the prevailing densities or any local circumstances that would lead to the setting of a density standard. However, my reading of this criterion is in fact that a specific density standard is not introduced, but higher than prevailing densities (regarded as being 17 – 25 dwellings per hectare) would only be acceptable depending on the context and relationship with the surrounding development. I consider that my suggested reworded HD Policy 2 satisfactorily addresses this issue and should reassure the community that the density of new development must be appropriate and respond to local character and context, but reassure MBC who express some concern over this that there is sufficient flexibility within the Plan to ensure that land is developed efficiently but appropriately.

The policy introduces a requirement to meet the Code for Sustainable Homes Level 4. The Government has reaffirmed its commitment to implementing the zero carbon standard in 2016 and considers that it has strengthened on-site energy performance requirements through the Infrastructure Act 2015. However, the Government has introduced an exemption for housing sites of 10 units or less from what is known as ‘allowable solutions’ i.e. off-site carbon abatement measures.

In addition the Government has withdrawn the Code for Sustainable Homes and this has been replaced by a new approach that sets technical standards through optional Building Regulations on water and access and a new national space standard. As I indicated before, the WMS²⁴ is clear that neighbourhood plans should not include any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This includes any policy requiring any level of

²⁴ Written Ministerial Statement 25 March 2015

the Code for Sustainable Homes. The WMS is also clear that neighbourhood plans should not be used to apply the new national technical standards. As a result criterion 3 of the policy does not now meet national policy and advice and should be deleted.

Criterion 4 seeks to retain existing buildings which seems at odds with a policy that deals with new residential development and if conversions are sought then these are often harder to achieve given the other aspects of the policy. Little justification is given for this. This criterion also seeks improvements to air quality and a reduction in demands on local services and infrastructure and contribution to traffic management. There is already a policy on developer contributions and air quality and traffic issues have been dealt with elsewhere in the Plan.

It is widely accepted that most new development will have an impact on local service provision and often this means greater use and support for local services and so can have a positive rather than a negative impact.

Criterion 5 refers to housing types which is covered by a suggested modification to HD Policy 2 discussed later in this report.

Criterion 6 requires open space to adhere to Home Zone/Manual for Streets principles or their future equivalents. This is not something that is mentioned in the supporting text, but the principles are of course widely recognised.

Finally, criterion 7 encourages the development of bungalows and this is dealt with satisfactorily in (my suggested modified) HD Policy 2 where I discuss this issue in more detail.

Taking all these matters together, in order for the policy to meet the basic conditions, the following modifications are recommended:

- **Consider whether this policy would be better placed in the “Housing Development” section of the Plan**
- **Reword the policy so that it reads as follows:**

“New development must demonstrate how it responds to its context and the established character of the area in which it is located and take account of the Loose Road Area Character Area Assessment. In particular development should have regard to typical building form, rooflines, materials, openings and boundary treatments as well as responding well to its context.”

- **Add title “Design of New Housing” or similar**

5 Housing Development

This section begins with an interesting scene setting introduction. It goes on to mention the draft Local Plan and a potential allocation site known as the New Line Learning playing field. It also offers support for sites allocated in the LP 2000 and any subsequent local plans and for new development on previously developed land. This is quite a broad statement and one that could be seen to contradict previous mention of the New Line Learning playing field and should be revisited in the light of my comments regarding possible uncertainty about the emerging MBLP 2014.

The text lists a number of sites categorised as brownfield sites including the Bus Depot which seems to conflict with subsequent business and employment policies.

The Plan is keen to discourage development on gardens and offers a robust explanation of why this type of development would be inappropriate and harm the local area. It correctly cites the NPPF as excluding residential gardens from the definition of previously developed land. It refers to Draft Local Plan Policy DM5 and in line with my previous comments any reference to the MBLP 2014 should be reconsidered.

- **Delete /revise references to MBLP 2014 in paragraphs 5.2 and 5.3**
- **Ensure that the supporting text is internally consistent**

HD Policy 1

This policy resists development on gardens, but allows for exceptions. These exceptions are clearly articulated and a number of criteria that must be considered acceptable before any such development goes ahead are outlined, again these are clear. The policy is, in part, very similarly worded to an emerging policy. It will help to achieve sustainable development in this locality, takes account of national policy and guidance, but is sufficiently flexible. It meets the basic conditions and no modifications are recommended except for the addition of a title.

- **Add title “*Garden Development*” or similar**

HD Policy 2

This policy is titled “Detailed Housing Design Policy”, very similar to the existing SD Policy 5 title (which I have recommended a number of modifications to), but in fact encourages a mix of housing types and densities, specifically encouraging the provision of bungalows and refers to car parking provision.

There is clear support from the community engagement for housing for older people reflecting the age profile and distribution of population together with data in the Sustainability Report. In addition bungalows are not an uncommon feature of the area. I have already discussed the issue of density in relation to SD Policy 5.

In relation to car parking provision, the WMS²⁵ reiterated the Government's keenness to ensure that adequate parking is provided in new residential developments and around town centres and high streets. Whilst the NPPF lists a number of criteria to be taken into account if setting a local standard,²⁶ the latest Government position is that local parking standards should only be imposed where there is clear and compelling justification that it is necessary to manage their local network. The WMS indicates that the market is best placed to decide if additional spaces should be provided.

The policy's approach of dealing with provision on a case by case basis taking the housing and locational contexts into account seems to me to be a sensible one. Incidentally the Basic Conditions Statement refers to this policy as requiring a minimum of two spaces and so has not been updated. This is a very minor point of accuracy.

In order for this policy to have sufficient regard to national policy and advice, the first paragraph of HD Policy 2 should be reworded as follows (for the avoidance of doubt the second paragraph relating to parking should be retained):

- ***“A mix of housing types and densities that reflect local needs and demographic changes and respect the context and character of the area in which the development is located will be supported. The development of bungalows or housing to suit the needs of older people is particularly encouraged.”***
- **Add title “Housing Types, Mix and Density and Car Parking” or similar**

6 Businesses and Employment

The preceding text to the three policies in this section explains that the Plan seeks to support the local economy. In particular it seeks to retain existing retail and commercial uses and support the sustainable growth of all types of business and enterprise in the area.

A business and employment study was undertaken in February 2014 as part of the evidence underpinning the Plan and is included as Appendix 7 to the Basic Conditions Statement. The appendix describes two local parades, Boughton and the Wheatsheaf, as well as a further parade of small shops south of the Swan Public House together with a small group of industrial buildings, the Enterprise Road area and the Bus Depot along Armstrong Road in the north of the area.

²⁵ Written Ministerial Statement 25 March 2015

²⁶ NPPF para 39

BCE Policy 1

The first part of this policy seems to give encouragement to retail, commercial and community uses providing the impact on the centres identified in Figure 5 (referred to incorrectly as Figure 6 in the policy) is acceptable. Earlier in this report I have noted the LP 2000 only identifies the Boughton Parade as a local centre in its retail hierarchy describing local centres as important in meeting the day-to-day needs of local people.

As well as redefining the boundaries of the Boughton Parade (as shown in Figure 5), the community has also identified a second 'local centre' of importance. As a result I have already recommended some changes to Figure 5 in the interests of clarity (see SD Policy 1) that also apply to this policy.

The second part of this policy refers to the loss of certain services and facilities and includes a number of criteria against which any such applications will be judged.

LP 2000 Policy R1 maintains and enhances the existing retail function subject to a number of criteria that include consideration of the impact on the vitality and viability of retail centres and neighbouring land uses, transport arrangements and accessibility. LP 2000 Policy R10 protects existing retail uses, resisting development which would harm the vitality and viability of local centres. LP 2000 Policy R11 relates to the loss of certain services and facilities.

In the interests of precision and clarity, to be more in line with the relevant Local Plan policies and with more recent national policy and advice, I suggest that it would be preferable to separate out this policy into two separate policies. Therefore **the following modifications are recommended:**

- **Reword BCE Policy 1 as follows:**

“New retail or commercial development, including any expansion of existing premises, will be supported throughout the Plan area provided all of the following criteria are met:

- a) the proposal would maintain or enhance the retail and community functions and the vitality and viability of the two centres, identified in Figure 5 as Boughton Parade and Wheatsheaf Shopping Parade, and***
- b) it would have an acceptable effect on residential amenity and any landscape or parking, highway and traffic considerations, and***
- c) it would respect the character of its surroundings and local buildings paying special attention to its scale, bulk and design and materials, and taking into account the Loose Road Area Character Area Assessment.”***

- **Add title “New Retail and Commercial Development” or similar**

(modifications continued on next page)

- Change any references to “local centre” including on Figure 5 to “centre” or “key centre” ensuring there is consistency between this change and the changes made in relation to SD Policy 1
- Insert new BCE Policy X to be titled “*Change of Use of Commercial and Business Premises*” that reads:

“Proposals that result in the loss of commercial and business premises that provide a service to the local community such as post offices, chemists, banks and shops will be required to demonstrate that either the use is no longer viable or the proposed use would provide an alternative community use. Where a lack of viability is satisfactorily demonstrated, and the building was originally built as a dwelling, there will be a preference for the unit to revert to residential use.”

BCE Policy 2

BCE Policy 2 is titled “character and signage” and sits within the business and employment section of the Plan, yet the second element of the policy refers to residential buildings and curtilages. Only the last of the three criteria in the policy relates to signage. Many signs or advertisements do not require consent and are dealt with under legislation that only considers amenity and public safety if consent is needed. The wording in the policy such as the use of the word “sympathetic to its surroundings” is ambiguous, and not precise enough and it is not clear what this part of the policy aims to achieve. There is no supporting commentary on this aspect of the policy to help me interpret what the intent behind this policy might be.

So I have included in my recommended modifications to a revised BCE Policy 1 above, the elements of this policy that relate to new commercial development and which do meet the basic conditions. As the remainder of this policy is unclear or insufficiently evidenced, this policy should be deleted.

- **Delete BCE Policy 2 in its entirety**

BCE Policy 3

This policy seeks to support the development of existing businesses, but its title and the wording of the policy I find confusing. It is not clear to me what the policy seeks to achieve. It seems to suggest that the rationale behind any commercial development schemes should be submitted at planning application stage which appears to be an onerous requirement and that parking provision should be in line with Maidstone Borough Council’s standards; that being the case there is no need to repeat that requirement in this policy.

The suggested reworded BCE Policy 1 covers new commercial development including the provision of parking. As a result, this policy is now no longer needed and in order to meet the basic conditions should be deleted.

- **Delete BCE Policy 3 in its entirety**

Appendices

A list of Delivery Partners and a helpful glossary are included as appendices. The glossary definitions mirror those in the NPPF, but adds a couple of additional definitions in and some further explanation.

8.0 Conclusions and Recommendations

I am satisfied that the North Loose Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements I am required to check outlined earlier in this report.

I therefore recommend to Maidstone Borough Council that, subject to the modifications proposed in this report, the North Loose Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the North Loose Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the North Loose Neighbourhood Plan area as approved by Maidstone Borough Council on 18 December 2012.

Ann Skippers
Ann Skippers Planning
18 December 2015

Appendix List of Documents

North Loose Neighbourhood Development Plan 2015 – 2031 and its Technical Appendices 1 and 2

North Loose Basic Conditions Statement dated 6 August 2015 and its appendices

North Loose NPF Community Consultation Statement dated September 2015

Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report 2015

Delivery Plan and Implementation Strategy dated 15 December 2014

Maidstone Borough-Wide Local Plan adopted December 2000 and its Proposals Map

Maidstone LDF Open Space Development Plan Document adopted December 2006

Maidstone LDF Affordable Housing Development Plan Document adopted December 2006

Maidstone Borough Local Plan Regulation 18 Consultation 2014

Maidstone Borough Local Plan Regulation 18 Consultation 2015

Maidstone Community Infrastructure Levy Preliminary Draft Charging Schedule Consultation 2014

List ends