

## MAIDSTONE BOROUGH LOCAL PLAN EXAMINATION

<http://www.maidstone.gov.uk/residents/planning/local-plan/examination>

### SESSION 11 – DEVELOPMENT MANAGEMENT POLICIES

**Hearing Statements:** *Please refer to the Inspector's Procedural Guidance Notes for information on the provision of hearing statements.*

**Deadline:** *One electronic copy in pdf format and three hard copies to be sent to the PO by 6.00pm on 20th October.*

### Inspector's Agenda with Matters, Issues, and Questions

#### 1. INTRODUCTION

- 1.1. Many representations are critical of the proposed development management policies. However few identify why the policies as currently worded would make the Local Plan unsound. Neither in most cases is specific alternative wording proposed. It is not the purpose of the Examination to seek to improve policies which are already sound. The definition of soundness is set out at paragraph 182 of the National Planning Policy Framework and was included in the original Regulation 19 comment form. It also appears on the examination website.
- 1.2. Representors should also note that the Local Plan is to be read as a whole and that where a policy does not include a requested criterion or other wording, the same point may already be covered by another Local Plan policy.

**Qn11.1 Before any requested changes to the DM policies or their supporting text may be discussed, those Representors who have not already done so are requested to identify in writing:**

- a) **Why the criticism of the policy or text set out in their original representations means that the policy is unsound?**
- b) **Does the Representation seek the deletion of the policy and its supporting text?**
- c) **If not, what specific change to the wording or text is sought that would make the policy sound?**

- 1.3. Representors should note that this is not an opportunity to introduce additional objections that were not included in the original representations.
- 1.4. References to changes already proposed by Maidstone Borough Council are to Document SUB 010 in the documents submitted for examination.

## **2. DEVELOPMENT MANAGEMENT POLICIES FOR MAIDSTONE BOROUGH**

### DM1 Principles of Good Design

- 2.1. MBC has proposed a minor change to Criterion (iv) (PC/48)
- 2.2. R19148/R19213 Refers to the lack of an appropriate Integrated Transport Strategy but does not explain why DM1 is unsound or seek any changes to that policy. Transport issues are to be discussed at Session 12.

#### **Qn11.2 Is Policy DM1 considered unsound and, if so, why?**

- 2.3. R19450 Requests specific wording changes to refer to design guidance produced by the AONB unit and a minor typo correction to Criterion (xiv).

#### **Qn11.3 Is Policy DM1 considered unsound and, if so, why?**

[DM3 Historic and Natural Environment - See Session 4]

DM4 Development on Brownfield Land (See also Session 4)

- 2.4. A core principle of the National Planning Policy Framework at paragraph 17 is to: *'encourage the effective use of land by reusing land that has been previously-developed (brownfield land) provided that it is not of high environmental value.'* Another is to *'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.'* There is a definition of previously-developed land in the glossary to the NPPF which, amongst other things, excludes land that is or was occupied by agricultural buildings and also excludes land in built up area such as private residential gardens, parks, recreation grounds and allotments. It does not exclude private residential gardens in the countryside which may qualify as brownfield in some circumstances.

- 2.5. R1953 Boxley PC seeks more robust stance to identify brownfield land for development ahead of greenfield but does not state why the policy is unsound or suggest specific wording changes.
- 2.6. R19258 Policy is considered inconsistent with NPPF because it introduces additional criteria for development on brownfield land in the countryside. Alternative wording is proposed which would apply the same criteria to residential development on brownfield sites in the countryside as Criterion 1 would apply to brownfield development of all types within Maidstone and other defined settlements.
- 2.7. R19456 Policy is considered inconsistent with NPPF and thus unsound because it does not seek to appropriately judge the issue of sustainability. No alternative wording is suggested.

**Qn11.4 Is Policy DM4 effective and consistent with national policy, and if not, what changes would make it so?**

**Qn11.5 Should the policy address the issue of whether private gardens in the countryside and small villages qualify as brownfield land?**

DM5 Air Quality

- 2.8. R19148/R19213 Where air quality is an existing issue, developments should not be supported that may exacerbate the situation, until mitigation measures for the existing issue are implemented. Does not state why the policy is unsound or propose specific wording.

**Qn11.6 To be effective, how would areas where air quality is an issue be defined other than as currently stated in the policy?**

**Qn11. 7 Who would undertake the mitigation and would the amended policy be effective?**

**Qn11.8 Is the policy wording adequately clear and effective in its different references to locations as: 'close to identified air quality**

**exceedance areas', 'within or adjacent to Air Quality Management Areas', and 'in or affecting Air Quality Management Areas'.**

DM6 Non-Conforming Uses

- 2.9. R19553/R1952 The policy is unclear as to where non-conforming uses would be appropriate.

**Qn11.9 Is the policy wording sufficiently clear to be effective and, if not, how should it be modified?**

**Qn11.10 The policy wording suggests that proposals may be permitted which would generate volumes or types of traffic 'unsuited to the local area' if they meet an exception created by another policy. In what circumstances could this arise?**

DM7 External Lighting

- 2.10. MBC has proposed a minor wording change to Criterion 2 (PC/51).
- 2.11. R1953 Policy should also refer to effect on AONB and conservation areas
- 2.12. R19148/R19213 Policy should be expanded as a dark sky policy. No suggested wording.
- 2.13. R19258 Criterion 2 precludes all external lighting that would 'neighbour' areas of nature conservation importance as well as lighting near enough to significantly affect them. Current wording is not the most appropriate strategy and therefore unsound. Part 2 should only prevent external lighting that would have a significant adverse effect on areas of nature conservation importance unless there are exceptional circumstances.
- 2.14. R19450 Seeks wording change to Criterion 2 for consistency with NPPF paragraph 125 with reference to intrinsically dark landscapes including the Kent Downs AONB and its setting.
- 2.15. R19553 seeks the addition of a limitation on hours of operation of lighting where there would be an adverse impact in residential areas?

**Qn11.11 Is this a strategic policy and, if not, how can it be considered an inappropriate strategy?**

**Qn11.12 Is reference to intrinsically dark landscapes necessary for Policy DM7 to be consistent with national policy?**

**Qn11.13 What evidence is there to identify what may be an 'intrinsically dark landscape' in the terms of NPPF paragraph 125?**

**Qn11.14 What specific policy rewording is sought by those who have not suggested any and is it needed for the policy to be effective and consistent with national policy?**

**Qn11.15 Why is the suggested limitation on lighting hours necessary to soundness?**

DM8 Residential extensions, conversions and redevelopment within the built up area

- 2.16. R1953 Lack of definition of 'sufficient'. Needs strengthening to ensure sufficient on-site car parking spaces.
- 2.17. R19148/R19213 Policy should make clear that each space should be separately accessible from the highway to count [i.e. no tandem parking]. Does not explain why policy unsound.

**Qn11.16 Is the word 'if' missing from the end of the first sentence of the policy and is it needed for the policy to be effective?**

**Qn11. In criterion (i) how would the phrase 'fit unobtrusively with' be interpreted and would it prevent or discourage appropriate innovation in the terms of NPPF paragraphs 58-64?**

**Qn11.17 How would the requirement for 'sufficient parking' be interpreted and should that be made clearer in the policy for it to be effective (eg by a cross reference to Policy DM27)?**

**Qn11.18 Are criteria DM8(i) and (iii) consistent with the different wording of Policy DM1(iv) which would apply to all forms of development?**

DM9 Residential premises above shops and businesses

2.18. R19553 seeks further guidance where residential use would have an adverse impact on the continued viability or operation of the shop?

**Qn11.19 Why would a modification be needed for soundness?**

**Qn11.20 What would that guidance say?**

DM10 Residential garden land

2.19. R1953 Needs strengthening to ensure sufficient on-site car parking spaces.

2.20. R19148/R19213 Should add requirement for adequate on-site parking to reduce likelihood of on street parking. Does not explain why policy unsound.

**Qn11.21 Does the policy need a parking criterion for it to be effective , and if so what, or is that matter suitably addressed by Policy DM27?**

[DM11-DM15 See Session 2B]

[DM16 See Session 10]

[DM20 Economic development - See Session 8]

DM21 Retention of employment sites

2.21. R19450 With reference to NPPF paras 113, 115 and 116 and S85 of the CROW Act 2000, seeks additional wording for criteria 3 and 4 relating to development in the AONB or its setting including a reference to the AONB Management Plan and design guidance.

**Qn11. 22 When Policy SP17 includes the conservation and enhancement of the AONB (as discussed in Session 4) is it necessary to repeat this in all other policies?**

**Qn11.23 Is a reference to the Management Plan and landscape character guidance produced by the Kent Downs AONB Unit necessary when it is already included in Policy SP17 and would the reference in either policy accord undue weight to documents that have not been examined or consulted upon as part of the Local Plan examination?**

**Qn11.24 Would the Local Plan be sound without the changes sought by the AONB unit?**

DM22 Open space and recreation

2.22. Policy DM22 is the main policy for publicly accessible open space and recreation. Policy OS1 makes specific open space allocations.

2.23. R19414 seeks an amendment to the supporting text to Policy OS1 at paragraph 8.1 to include a reference to the use of Local Amenity Trusts to assist in the establishment and management of open spaces.

**Qn11.25 Why is the requested change necessary for soundness?**

**Qn11.26 Should any such reference be in a policy rather than supporting text and, if so, which policy?**

DM24 Sustainable transport [See also Session 12]

2.24. Paragraph 32 of the National Planning Policy Framework provides amongst other things that: *'Plans and decision should take account of whether:*

- *The opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure*
- *Safe and suitable access to the site can be achieved for all people*
- *Improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport*

*grounds where the residual cumulative impacts of development are severe.'*

- 2.25. MBC has proposed amended wording for paragraph 1 (PC/55) which would add text to confirm MBC support for '*schemes for mitigating the impact of development on the local and strategic road network*'.
- 2.26. R19450 With reference to NPPF paras 113, 115 and 116 and S85 of the CROW Act 2000 seeks unspecified changes to paragraph 17.127 relating to effects of the listed transport measures on the AONB and its setting.

**Qn11.27 What changes are sought and why are they needed in addition to the provisions to Policy SP17?**

- 2.27. R19258 Policy does not comply with NPPF paragraph 32 which does not require full mitigation and only seeks to prevent development with a residual severe impact after mitigation. Alternative wording suggested.
- 2.28. R19553 does not object to the policy but comments that it is wrongly included amongst development management policies when much of the policy concerns strategy.

**Qn11.28 Does the wording of Criterion 3(i) mean that all impacts of trips generated to and from a development would have to be fully mitigated (such that the residual impact would be zero) and would that be inconsistent with NPPF paragraph 32?**

**Qn11.29 If so, does the alternative wording suggested by R19258 accurately reflect national policy and, if not, what alternative wording may be more appropriate?**

DM28 Renewable and low carbon energy schemes

- 2.29. MBC has proposed a change to criterion 2 to correct what is said to be a drafting error. The amended wording would read '*The landscape and visual impact of development with particular regard to any impact on, ~~or the setting of, the Kent Downs AONB~~ or its setting or the setting of the High Weald AONB.'*



- 2.30. As proposed to be reworded the criterion appears to include the effects of development outside the setting of the AONB on areas within the setting of the AONB but not within the AONB.

**Qn11.30 Should criterion 2 be concerned only with the impact of development within the AONBs themselves and the impact of development within the setting of the AONBs and not with the effect of development outside the setting on land within the setting?**

- 2.31. R1953 Needs strengthening to include a statement that agricultural land used for renewable energy will not be classed as brownfield should installations cease operation.

**Qn11.31 Why would any modification be needed for soundness, particularly as Criterion DM28(8) already provides for the return of land to its previous use when the installations have ceased operation?**

- 2.32. R19148/ R19213 Policy should be expanded to ensure facilities are not visible at short or long distance. Especially relevant across a valley or between hills. Does not explain why policy unsound.

**Qn11.32 Criterion DM8(2) requires account of the landscape and visual impact of development which would necessarily include consideration of short and long distance views. Why is any modification needed for soundness?**

- 2.33. R19450 With reference to paragraph 116 of the NPPF seeks amended text for paragraph 17.159 relating to the AONB and amended wording which would preclude all development for renewable and low carbon energy schemes in the AONB.

**Qn11.33 Neither national policy nor national guidance preclude renewable and low carbon energy development either in Areas of Outstanding Natural Beauty or in National Parks which benefit from equal status for their landscape qualities. Moreover the English National Parks Circular 2010 encourages such development in national parks. Why therefore would the Local Plan be unsound without the requested modification?**

- 2.34. R19553 Whilst expressing support for the policy CPRE propose that it be completely rewritten together with additional criteria for wind turbines and the preclusion of all renewable or low carbon energy development in the AONB or on best and most versatile land (Grades 1, 2 and 3A). The Representation does not explain why the policy is unsound or otherwise justify the proposed wording.

**Qn11.34 As CPRE expresses support for the policy, why would it be unsound without the proposed rewording?**

DM29 Electronic communications

- 2.35. R19148/ R19213 Criterion 4 [adhere to Government advice on health effects] should be expanded to include cumulative health effects. Does not explain why policy unsound.

**Qn11.35 Why is the policy unsound as worded?**

**Qn11.36 Why would Government advice not take account of cumulative effects and what other objective evidence would be available to the decision-maker?**

- 2.36. R19450 With reference to NPPF paras 113, and 115 seeks amended text for to include an additional landscape criterion for the development in the AONB or its setting and that telecommunication masts be limited to permission for a 10 year period.

**Qn11.37 Why is the landscape criterion needed when Policy SP17 already includes landscape criteria?**

**Qn11.38 Why would the Local Plan be unsound without the requested limitation of permission for a 10 year period and does this have any support in national policy?**

- 2.37. R19553 Whilst expressing support for the policy CPRE seeks the replacement of Criterion 2 as: *'equipment is sited so as to minimise the impact on the natural and historic environment.'*

Qn11. Why is the proposed modification necessary for soundness?

Qn11. Would the proposed wording conflict with the different policy tests for the natural and historic environment elsewhere in the Local Plan and in national policy?

### **3. DEVELOPMENT MANAGEMENT POLICIES FOR THE COUNTRYSIDE**

DM34 Design principles in the countryside

- 3.1. R1953 Criterion 2 should include conservation areas and setting of listed buildings in list of areas in need of protection. Does not explain why policy unsound.

**Qn11.39 Why would the policy be unsound without this change?**

**Qn11. Is the issue adequately addressed elsewhere in the Local Plan including by Policy SP17(8) and Policy DM3?**

- 3.2. R19450 With reference to NPPF and the CROW Act 2000 seeks specific reference to AONB design guidance. It is claimed that the Inspector for a Sevenoaks development plan document supported this approach.

**Qn11.40 Would a reference here to design guidance produced by the Kent Downs AONB Unit accord undue weight to documents that have not been examined or consulted upon as part of the Local Plan examination?**

**Qn11.41 Would the Representor supply a relevant extract from the Sevenoaks Inspector's report?**

- 3.3. R19553 CPRE seeks the rewording of the first paragraph to include a cross reference to Policy SP17?

**Qn11.42 Is the wording of Policy DM34 consistent with the policy tests in Policy SP17 and is cross referencing between the policies needed to make them more effective?**

DM35 Conversion of rural buildings

- 3.4. Policy DM20 also includes relevant provisions and will be considered at Session 8.
- 3.5. R19450 With reference to NPPF paras 113,114 and 115 seeks additional text for paragraph 19.5 relating to the AONB including a reference to the AONB Farmstead Guidance document.

**Qn11.43 Is a reference in the supporting text needed for the Local Plan to be sound?**

- 3.6. R19458 The policy is not consistent with the NPPF paragraphs 28 and 51 and thus unsound in seeking to prioritise economic development or tourism re-use of rural buildings over residential use. No alternative wording is suggested.
- 3.7. NPPF paragraph 28 provides explicit support for business and enterprise in rural areas and does not refer to residential development. Paragraph 51 supports the bringing back into residential use empty housing and buildings and the conversion to housing from commercial (B class) buildings.

**Qn11.44 How is Policy DM35 inconsistent with NPPF paragraphs 28 and 51?**

**Qn11.45 Why should not support for rural business not include priority in the re-use of buildings, particularly in circumstances where residential use may be more valuable and thus likely to outbid business or tourism uses?**

DM37 Change of use of agricultural land to domestic garden land

- 3.8. R1953 Should expand policy to include continued protection for any TPO trees incorporated into the garden. New garden should be classified as greenfield. Specific reference to agricultural land is unfortunate and misleading.

**Qn11.46 Why would TPO protection not continue in any event?**

**Qn11.47 Can the definition of garden land as greenfield or brownfield be amended by policy given that the usual definition is contained in national policy and there is no separate definition in the Local Plan?**

- 3.9. R19553 considers that the policy is too permissive and open ended and seeks a presumption against such development and the deletion of this policy in favour of the consideration of policies under Policy SP17

**Qn11.48 Why would deletion of the policy be necessary for soundness?**

**Qn11.49 What provisions of Policy SP17 would apply to development of this type?**

DM40 New agricultural buildings and structures

- 3.10. R19148/ R19213 Criterion 4 for polytunnels is very inadequate. Additional criteria sought but without specific wording. Does not explain why policy unsound.

**Qn11.50 Why is the policy unsound?**

**Qn11. What specific wording changes are sought?**

- 3.11. R19450 With reference to NPPF paras 113, 115 and 116 115 seeks an additional policy criterion relating to the AONB to require an 'integrated whole farm plan' when polytunnels are proposed.

**Qn11.51 Why would the additional criterion be necessary to soundness?**

DM41 Expansion of existing business in rural areas (See also Session 8)

- 3.12. R19450 Seeks wording change to Criterion 2 for consistency with NPPF paragraph 125 with reference to effect of external lighting.

- 3.13. R19553 CPRE seeks additional criteria to restrict lighting

**Qn11.52 Why would a reference to external lighting be needed when the matter is already addressed by Policy DM7?**

DM42 Holiday caravan and camp sites

- 3.14. R19450 On basis of distinction to be made in planning policies in the hierarchy of landscape protection as set out in NPPF, para. 113 the representation seeks by amended wording to preclude all holiday caravan and camp sites from the AONB.
- 3.15. R19553 CPRE also seeks to preclude all such development within the AONB and to add criteria concerning landscape impact and lighting.

**Qn11.53 Many AONBs and National Parks include caravan and camp sites, and they are not precluded by national policy, why should the Kent Downs AONB and its setting be different?**

**Qn11.54 Would lighting and landscape impacts already be addressed by other Local Plan policies such as DM7 DM34 and SP17?**

DM43 Caravan storage in the countryside

- 3.16. Criterion 2 requires that the site is comprehensively screened before the use commences.

**Qn11.55 Does Criterion 2 require that screen planting matures before the use commences and if so, would that be practical and effective?**

- 3.17. R19553 seeks the deletion of this policy as unnecessary and such development can be dealt with by other plan policies.

**Qn11.56 Which if any soundness test would justify the deletion of the policy?**

DM44 Retail units in the countryside

- 3.18. R19450 On the basis of NPPF core principles in paragraph 17, seeks an amended criterion 1(iv) to require that any new building are sited close to existing buildings and are of an 'appropriate design'.

**Qn11.57 Why would the Local Plan be unsound without this change?**

**Qn11.58 What does 'an appropriate design' mean?**

- 3.19. R19553 seeks a definition of what would be a significant proportion of goods grown and sold on the holding.

**Qn11.59 Is a definition of what may be a significant proportion required for the policy to be effective?**

**Qn11.60 What would be significant – 10%? 30% 50%? 75%?**

DM45 Equestrian development

- 3.20. R19450 With reference to paragraph 125 of the NPPF seeks amended wording for the lighting criterion which is to be designed to avoid light pollution (5). Also seeks specific reference to guidance produced by the Kent Downs AONB unit for the management of land for horses within the AONB.

**Qn11.61 How would light pollution be defined and why would it differ here from other external lighting covered by Policy DM7?**

**Qn11.62 Would a reference in this or other Local Plan policies to the guidance produced by the Kent Downs AONB Unit accord undue weight to documents that have not been examined or consulted upon as part of the Local Plan examination?**